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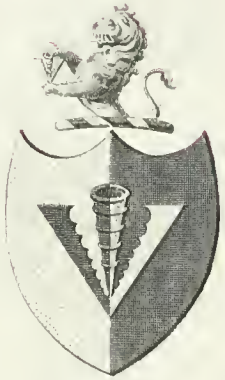

James Whatman

A

TREATISE

OF THE

Exchequer and Revenue

OF

IRELAND.

Chandos Temple
1798

A

TREATISE

OF THE

Exchequer and Revenue

OF

IRELAND.

By G. E. HOWARD, Esq.

MOST HUMBLY INSCRIBED,

To the TREASURER, CHANCELLOR, LORD CHIEF BARON, and the Reſt of the BARONS of the COURT of EXCHEQUER.

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M,DCC,LXXVI.

A

TREATISE

OF THE

EXCHEQUER AND REVENUE

OF

IRELAND.

CHAP. XXIX.

OF OFFICES OR INQUISITIONS.

Office or inquiſition, what, and in what caſes neceſſary 3 Black. c. 16.

AN office or inquiſition for the Crown is an enquiry made by the King's eſcheator, or officer, *virtute officii*, or by writ ſent to him for that purpoſe; or by commiſſioners ſpecially appointed, concerning any matter that entitles the King to the poſſeſſion of lands or tenements, goods or chattels; as to enquire whether the King's tenant for life died ſeized, whereby the reverſion accrued to the King; whether A who held immediately of the Crown died without heir, in which caſe the lands belong to the King by eſcheat; whether B be attainted of treaſon, whereby his eſtate is forfeited to the Crown; whether C who has purchaſed lands in mortmain be an

alien, in which caſe he can only purchaſe for the benefit of the Crown; whether D be an idiot from his birth, and therefore, together with his lands, appertain to the cuſtody of the Crown; and other queſtions of the like import, concerning both the circumſtances of the tenant and the value or identity of the lands.

The purpoſe of them. Finch. 82. Hob. 347.

Theſe inqueſts of office were deviſed by law as an authentick means to give the King his right by ſolemn matter of record, without which, in general, he can neither take nor part from any thing; for it is part of the liberties of the ſubject that the King may not enter upon or ſeize any man's poſſeſſions upon bare ſurmiſes without the intervention of a jury.

And by the ſtat. Weſt. 1. c. 24. it is provided that no eſcheator, ſheriff, or other bailiff of the King, by colour of his office, without ſpecial warrant or commandment, (that is a *diem clauſit extremum*, or other writ,) or certain authority which appertains to his office, diſſeize any man of his freehold, or of any thing which belongs to his freehold.

More frequent during the military tenures.

Theſe inqueſts of office were more frequently in practice than at preſent, during the continuance of the military tenures; when, upon the death of every one of the King's tenants, an *inquiſitio poſt mortem* was holden, to enquire of what lands he died ſeized, who was his heir, and of what age, in order to entitle the King to his wardſhip, marriage, relief, *premier ſeiſin*, and other advantages.

But ſtill in force on certain occaſions.

With regard to other matters theſe inqueſts of office ſtill remain in force, and are taken upon proper occaſions; not only with reſpect to lands, but alſo to goods and chattels

chattels perſonal; as in the caſe of wreck, treaſure-trove, and the like; but eſpecially as to forfeitures for offences.

And theſe offices are of two ſorts: one of entitling, which veſts the eſtate and poſſeſſion of the land in the King, where he had but a right or title before; as in the caſe of a purchaſe by an alien, or by a body politick or corporate in mortmain, by a perſon attainted of felony, *&c.* And ſuch office, which concerns freehold, if found by force of a commiſſion, ought to be under the great ſeal. 5 Co. 52. a. Cro. Car. 172. Office of entitling. must be under the great ſeal.

The other kind of office is called an office of inſtruction; that is where the eſtate of the land is lawfully in the King before, but the particularity of it doth not appear of record, ſo that it may be put in charge. As if one be attainted of high treaſon, by which all his lands are immediately, by the 27 Eliz. c. 1. in the King; or if the King's tenant commit felony, and be attainted and die; in theſe, and the like caſes, the eſtate of the land is without any office in the King; but as it doth not appear to the Court of Exchequer of what lands the perſon attainted was ſeized, at the time of his attainder or after, an office of inſtruction is neceſſary; and if ſuch office be found by force of a commiſſion under the Exchequer ſeal it is a ſufficient record to inſtruct the King of the certainty of the land that it may be put in charge. 5 Co. 52. a. Cro. Car. 172. Of inſtruction. may be under the Exchequer ſeal.

Alſo a commiſſion under the Exchequer ſeal finding a chattel is ſufficient.

Where returnable.

Offices found before the eſcheator, *virtute brevis*, are to be * returned into the Court of Chancery; but offices found before him, *virtute officii*, may be returned into the Court of Chancery or Exchequer. And by 18 Hen. VI. c. 7. Eng. in caſe any eſcheator take any office and return not the ſame in the Chancery or Exchequer, in a month after the taking, he ſhall incur the penalty of £.40 to the King, and be bound to pay the King as much as he is damaged by not returning ſuch office. And by 23 Hen. VI. 17 Eng. if he take his inqueſt by force of a writ, he is to take it within a month after the delivery of the writ, and in good towns and open places. 4 Inſt. 225. 1 Co. 42. b. 4 Co. 57. a.

May be taken by commiſſioners.

But an office found before commiſſioners is as forcible in law as if it had been found before the eſcheator.

Where the King ſhall be in poſſeſſion without office.

When the King's tenant ſeized of lands in fee dies without heir, or when a perſon attainted of high treaſon dies, the fee and freehold are immediately upon his death, and before office found thereof, caſt upon the King; for in ſuch caſe it ought to be in ſome perſon; and if any perſon enters into the land and takes any of the profits, an information of intruſion may be preferred for the King againſt him before office or ſeizure; for the King immediately by the death is in actual poſſeſſion; and has not a mere freehold in law only as a common perſon in ſuch caſes. 4 Co. 58. a.

* But though the office be not returned at all it is ſufficient to entitle the King. 1 Co. 42. b.

By

By the common law the lands of a perſon attainted of high treaſon, tho' forfeited to the King, were not veſted in the actual poſſeſſion of the King during the life of the offender, without office. But now by 27 El. c. 1. the actual poſſeſſion is transferred to and veſted in the King immediately by the attainder, as well in the life as after the death of the perſon attainted, as well of lands in tail as of lands in fee ſimple. 3 Co. 10.

Lands of a perſon attainted of treaſon veſted in the King without office. 33 Hen. 8. c. 20 Eng.

But if a man who has only a right of entry be attainted, the King ſhall not be in poſſeſſion until a *ſcire facias* or a ſeiſure at leaſt; for tho' the words of the ſtatute are, that the King ſhall be in actual poſſeſſion without any office found, the conſtruction ſhall be that the King ſhall be in actual poſſeſſion as if an office had been found; and at common law, if a diſſeiſee had been attainted of treaſon, and the ſeiſin and diſſeiſin had been found by office, the poſſeſſion ſhould not be in the King till a *ſcire facias* ſued, or a ſeiſure at leaſt. 3 Co. 10.

But not where he had only a right of entry, until a *ſcire facias* or ſeiſure.

In all caſes where the King is intitled to an inheritance or freehold, his title is either, firſt, by matter of record; which is either by judgment, or judicial record, or by conveyance of record, as fine, deed enrolled, *&c.* or ſecondly, by matter of fact, found by office; as alienation in mortmain, purchaſe by an alien, eſcheat, *&c.* or thirdly, by matter in fact only; as when lands comes to the King by eſcheat or other matter of fact, and the King's officers put it in charge in the Exchequer without office. 4 Co. 54 b.

How the King may be entitled.

In all caſes where a ſubject ſhall not have poſſeſſion in deed or in law without entry, the King ſhall not have it without office found, or other matter of record; as when the

Where an office is neceſſary.

the King's tenant aliens in mortmain, or where the King claims on a forfeiture, or a condition broken. Stamf. prær. 55 b.

So in caſes concerning the King's prerogative; as where he claims the lands of an ideot, lunatick, or the year, day, and waſte of a felon attainted, or the temporalities of a Biſhop for a contempt, ibid.

When an office is ſufficient without ſeiſure.

If the King's title be found to lands or tenements, the King ſhall be in poſſeſſion immediately without ſeiſure, if the poſſeſſion be vacant; or to * offices which are local, or of which a continual profit may be made; Stamf. prær. 54 b. 9 Co. 95. b. 4. Co. 58. a. So in all caſes, where at the time of the office the poſſeſſion was vacant. 4 Co. 58. a.

When not.

But if the King's title be found by office to an incorporeal inheritance, (as an advowſon, *&c.*) the King ſhall not be in poſſeſſion before ſeiſure; and if the King, after office, preſent, the Defendant, in a *quare impedit*, may traverſe the King's title in the ſame action, without traverſing the office, as he muſt do where the King is in poſſeſſion by the office. 9 Co. 96. a. Stamf. prær. 54. b.

So if any other, except him in whoſe right the King claims, be in poſſeſſion at the time of the office found, the King ſhall not be in actual poſſeſſion till ſeiſure; as if the King's tenant be diſſeiſed and die without heir; or if an alien or purchaſer in mortmain be diſſeiſed, and it be found by office, in theſe caſes the King ſhall not be in poſſeſſion until the ſeiſin and poſſeſſion of the terre-tenant be removed. 4 Co. 58. a.

* See Sav. 1.

Where

Where a common perſon may lawfully enter by any title, as for alienation in mortmain, eſcheat, &c. there if ſuch title be found for the King by an office, the King ſhall be adjudged in poſſeſſion without a *ſcire facias* againſt the tenant; ſo where the forfeiture of an office is found by office. But where a common perſon cannot enter, but is put to his action, as in waſte, *ceſſavit*, &c. there, tho' ſuch matter be found for the King by office, he is not in poſſeſſion, but ſhall have a *ſcire facias* againſt the tenant. Br. Sc. fac. pl. 122. 143. 9 Co. 96. b.

A *ſcire facias* is neceſſary where a common perſon could not enter.

If the King's title appear by two diſtinct records, the King ſhall not be in poſſeſſion before a *ſcire facias*, tho' a common perſon in ſuch caſe might enter, except in ſpecial caſes; as if an office find that the manor of D. is holden of the King, and it appears by a fine that it is aliened in mortmain, the King ought to have a *ſcire facias* before a ſeiſure; for it is poſſible there are two manors of D. 9 Co. 96. a.

Or where the King's title appears by two diſtinct records.

So where the King does not ſeiſe within a year and a day after office found, he ought to have a *ſcire facias* before ſeiſure. Stamf. prær. 54 b.

So where no ſeiſure within a year and day.

If the King's title appear by other matter of record, an office is not neceſſary. Stamf. prær. 56. a.

Where an office is not neceſſary.

So if a poſſeſſion in law be caſt upon the King, no office is neceſſary; as where he has a title by deſcent, remainder or reverſion; or is intitled by eſcheat; or by his prerogative, as by reaſon of wardſhip, &c. or to the temporalities of a biſhop during a vacancy; in all theſe caſes, without any office or other record, there is a poſſeſſion in law veſted

Where poſſeſſion in law caſt on the King.

veſted in the King, which he may reduce to a poſſeſſion in deed by entry or ſeiſure. Stamf. prær. 54. a.

Where eſtate granted by the King determines by limitation; otherwiſe where by condition.

So if an eſtate granted by the King determine by a proviſo or limitation, the King ſhall be intitled immediately, before the breach found by office; as if the King leaſe, upon condition that if the rent be not paid at the Exchequer on ſuch a day it ſhall be void; but it would be otherwiſe if the leaſe were made with a condition of re-entry, or if it were a leaſe for life; for where an entry is neceſſary in the caſe of a common perſon, an office (which countervails an entry) is neceſſary in the caſe of the King. Moor 291. Poph. 53.

Diſtinction where rent payable at the Exchequer and where to receiver.

But in a later caſe a diſtinction is taken between a reſervation of rent by the King, payable at the receipt of the Exchequer, with ſuch a proviſo, and a reſervation of rent payable to his receiver; for that in the firſt caſe the non-payment appears by record, and therefore this needs no office; but that in the other it is a matter in pais, which does not appear on record. but qu. Cr. Car. 99.

Chattels, &c may be ſeiſed without office.

Where the King is to have chattels, or profits of land for a contempt, he may ſeiſe without office; ſo upon outlawry in a perſonal action; or the goods of a prior alien. Sav. 8.

Preſentation to a church.

So he may have a preſentation to a church, upon an avoidance for Simony, or otherwiſe; for the preſentation *pro hac vice* is but a chattel. 2 Vent. 270.

Nomination to an office.

So he may nominate to an office void by 5 and 6 Ed. VI. 16 Eng. by ſale of the office. 2 Vent. 270.

If

If a *ſcire facias* iſſue out of Chancery to repeal a patent enrolled there, there needs no previous office; but if a *ſcire facias* be brought for the forfeiture of an office or other matter in another court, there ought to be firſt an office found in the other court; except the forfeiture appear on record in the ſame court. 2 Lev. 223.

Where neceſſary before *ſcire facias* to repeal a patent.

An office to intitle the King muſt be holden in the county where the lands lie; but an office of inſtruction may be found in any county. Moor 641. Cr. El. 855. 5 Co. 54 b.

Where offices are to be holden.

Upon taking an inquiſition a ſtranger has a right to prove his property; and therefore where an extent iſſued againſt a perſon at the ſuit of the Crown, upon which goods were ſeiſed, a perſon who claimed a property in the goods, being adviſed to make the beſt inquiry he could when the inquiſition would be holden, accordingly did ſo, in order to give evidence of his title; but the officers made uſe of ſhuffling evaſions to prevent him from knowing the time and place of holding it. Upon motion, the court of Exchequer in England ſet aſide the inquiſition; for tho' notice is not to be given in ſuch caſes, becauſe there is no body in particular to give notice to, yet if a party be there and offers evidence of his property, it ought to be admitted. Otherwiſe the difficulty would be very great upon the ſubject; for before a plea he muſt give ſecurity; he can have no action againſt the ſheriff; and he can have no coſts or damages if he ſucceeds in his plea. Trinity 1727. King v. Bulley. Bunb. 233.

Upon an inquiſition a ſtranger has a right to prove his property.

Notice to be given of iſſuing the commiſſion in ſpecial caſes.

A woman having been found heir at law to Sheffield duke of Buckingham, and hearing that an inqueſt of office was to iſſue, to inquire whether, by the attainder of her anceſtors in Ireland, the lands did not eſcheat, moved the Exchequer, in England, for an order to give reaſonable notice of the iſſuing ſuch commiſſion, citing ſeveral old ſtatutes which have provided penalties on the eſcheator for executing them privately; as 34 Ed. III. 13. 36 Ed. III. 13. 23 Hen. VI. 17. 1 Hen. VIII. 8. and Chief Baron Parker, tho' he thought this a favourable caſe for notice, yet it being a general rule that no * notices need be given of executing inqueſts of office, which are merely *ex parte*, and traverſable, was againſt the giving notice: But the other three barons were of different opinion; for tho' they agreed that they would not make a general rule, that in all caſes of inqueſts notices ſhould be given, yet, they held that conſidering the circumſtances of this caſe, it ought to be given; for if ſhe were preſent, ſhe would have a right to lay her evidence before the jury; and altho' the inqueſt may be traverſed, it is a great hardſhip with the ſubject to contend with the Crown; and ſecurity muſt be given, which may be difficult to get for ſo large an eſtate. June 1749. King v. Daly. 1 Veſey 269.

Melius inquirendum when to iſſue for the King.

After a *diem clauſit extremum*, *mandamus*, or other original office, awarded or found againſt the King, no new

* Upon an Engliſh information in this court, for lands forfeited by the attainder of Owen Carrol on account of the rebellion in 1688, and the cauſe being ready for a hearing, a motion was made on behalf of the Crown, for a commiſſion for an inquiry into the particulars and value of the lands; which was granted, altho' the cauſe was out of court, and no notice had been given of the application; the Crown having a right to the office in the firſt inſtance, on the application of the Attorney General, without mentioning it to be in any cauſe. 19 June 1752.

writ

writ of *diem clauſit extremum*, &c. ſhall iſſue; but in ſuch caſe a writ of *melius inquirendum* ſhall iſſue. 8 Co. 169. a.

Upon ſurmiſe that the lands are of greater value, &c.

And a *melius inquirendum* ſhall be awarded upon a ſurmiſe made in court, that the lands are of greater value than is declared by the office, or that the tenant was ſeiſed of other lands or other eſtate than is mentioned in the office. F. N. B. 565.

No new writ of *melius inquirendum* to iſſue, except the firſt be quaſhed.

But if the writ *melius inquirendum* be found againſt the King, no new *melius inquirendum* ſhall be awarded; for otherwiſe there would be no end of the matter; but if the writ of *melius inquirendum* be inſufficient or repugnant, tho' the finding be well, the *melius inquirendum* may be quaſhed, and a new one awarded. 8 Co. 168. b.

But a diſtinction is taken, in F. N. B. 564 that if the firſt office be found by the eſcheator *virtute officii*, and the office want certainty in many particulars, a *melius inquirendum* ſhall not iſſue; but the office and inquiſition returned ſhall be void, becauſe it is not found by any commiſſion or writ.

It is holden in Salk. 469. that where an inquiſition is defective and uncertain, that cannot be ſupplied by a *melius inquirendum*; but that where it finds ſome points well and not others, there may be a *melius inquirendum*.

A *melius inquirendum* awarded for the Crown, where a party had been found not to be an alien.

But this matter came to be fully conſidered in a modern caſe, upon a petition of Mrs. Roſe Dupleſſis, to ſuperſede a commiſſion into Middleſex, to enquire whether ſhe was an alien, ſhe having been found not to be an alien upon a former commiſſion, by a jury of Middleſex,

and on this two queſtions were made; 1ſt. whether the finding on the firſt office was concluſive to the Crown, as to the lands in that county. 2dly, If not, whether the regular method of proceeding for the Crown, was by a new commiſſion, or by a *melius inquirendum*. And lord Hardwicke, aſſiſted by C. B. Parker, was of opinion that Stoughter's caſe, 8 Co. 168. had ſettled the law; and that the diſtinction laid down in Salk. was not to be relied on; that there ought not to be a new original commiſſion againſt a former found againſt the King, ſtanding in force; but that there might be a *melius inquirendum*, upon a ſuggeſtion, tho' contrary to the firſt finding. And the new commiſſion was accordingly ſuperſeded. 2 Veſey 538.

CHAP.

CHAP. XXIX.

OF THE SUBJECTS REMEDY AGAINST THE CROWN, BY PETITION OF RIGHT, MONSTRANS DE DROIT, AND TRAVERSE.

Petition of right neceſſary at common law where the King was ſeiſed by matter of record, &c.

AT common law, if the King was ſeiſed of any eſtate of inheritance or freehold by any matter of record, be his title by matter of record, judicial or miniſterial, or by conveyance of record, or by matter of fact and found by office of record, he who had right could not have any traverſe, but was put to his petition of right, which was in nature of his real action, which could not be brought againſt the King; becauſe the King can't by his writ command himſelf. 4 Co. 55. a. Somers arg. 75.

Or where the King ſeiſed without title.

So in all caſes where the King ſeiſes the lands of a ſubject, having no title by order of law. Stamf. prær. 72. b.

Or where a man entitled rent out of land which came to the King.

So if a man has a rent charge, or rent ſervice, or other rent iſſuing out of land by preſcription or grant, and the land comes to the King by grant or forfeiture; or if a man be ſeiſed of land and acknowledge a ſtatute or recognizance, and before execution taken, the eſtate comes to the King by attainder, or the terre-tenant grants to the King by deed enrolled; in thoſe caſes the owner of the rent, or the conuſee of the ſtatute is put to his petition, and has no other remedy, unleſs the whole matter be ſpecially found by office. Stamf. prær. 75. a. Som. arg. 81.

So

Or where a debt was due to the Crown.

So, in caſe of debts owing by the Crown, the ſubject's remedy is by petition; for petitions lie for a chattel as well as for a freehold. Som. arg. 85. 88.

Or where his entry would be toll'd.

So in all caſes where a man has a right, and in the caſe of a common perſon his entry would be toll'd, he ought to ſue to the King by petition. Sa. prær. 74. 6.

Brought either to the King in parliament, or out of parliament.

And this petition is called a petition of right, becauſe of the right the ſubject hath by law to the thing he ſueth for; and ſuch ſuit may be to the King in parliament, or out of parliament. If it were ſued in parliament it might be enacted as an act of parliament, or be ordered as a petition ſued out of parliament. Stamf. prær. 72. 6.

Petitions to the King in parliament reſtrained by ſtatute.

By the ſtat. 8. Ed. I. c. 6. Eng. notice is taken that the buſineſs of the parliament was interrupted by a multitude of petitions which might be redreſſed by the Chancellor and juſtices; wherefore it is thereby enacted, that petitions which touch the ſeal ſhould come firſt to the Chancellor; thoſe which touch the Exchequer to the Exchequer; and thoſe which touch the juſtices or the law of the land ſhould come to the juſtices; and if the buſineſs be ſo great, or ſo of grace, that the Chancellor or others cannot do them without the King, then the petitions ſhall be brought before the King to know his pleaſure; ſo that no petition come before the King and his council but by the hands of the Chancellor and his other chief miniſters, that the King and his council may attend the great affairs of his realm and his foreign dominions. Riley 442.

This law being made there is reaſon to conclude that all petitions brought before the King in parliament after this

this time, and anſwered there, were brought according to the method of this law, and were of the nature of ſuch petitions as ought to be brought to the perſon of the King. Som. arg. 87.

If the petition have a general concluſion, viz. that the King do him right and reaſon, then the endorſement is general to the Chancellor, viz. that right be done to the party; and then there ſhall be a commiſſion awarded out of Chancery to find the right or title of him that ſues the petition; which being found by inqueſt, he may interplead with the King, and not before. And if upon the commiſſion a title be found for the King, the party ſhall have a new commiſſion; for the petition ſhall not be ſaid to be depending till the parties title be found by office. Stamf. prær. 726. 73. a.

If the petition have a general concluſion it is endorſed to the Chancellor.

Or the petition may have a ſpecial concluſion, and then the endorſement may be ſpecial likewiſe, viz. to the juſtices of either bench, who then may proceed in it without any other writ or commiſſion. Stamf. prær. 73. b. And theſe endorſements were various, according to the nature of the caſe; inſtances of which may be ſeen, Riley 249. 251. 253. 256. 259. 262. 402, *&c.*

If ſpecial, to the juſtices of either bench.

In every petition, whether the lands remain in the King's hands or are granted over, writs of ſearch purſuant to the 14 Ed. III. ſt. 1. c. 14. Eng. are to be awarded to the treaſurer and chancellor of the Exchequer, to ſearch the King's title, before the party ſhall interplead with the King. Stamf. 74. a. But in a petition of right, which affirms the King's poſſeſſion, writs of ſearch are not neceſſary. Moor 639

Writs of ſearch when neceſſary.

Where

Where no office found for the King none neceſſary

Where no office is found to entitle the King, the party may purſue a petition without any inquiſition for him. Mor 639.

When the title of the party petitioning was found by office he traverſed.

And, when the title of the party petitioning was found by office, then he came into court, and traverſed the King's title; ſo that the record began by ſetting out the firſt inquiſition found for the King, then the return of the inquiſition taken upon the petition, and then it proceeded *et modo ad hunc diem venit*, &c. and ſo traverſed the King's title.

Where the office only entitled the King to *ſcire facias* the party might come in and ſhew his title.

If the office found for the King did not entitle him to the poſſeſſion, but only to the bringing of a *ſcire facias*; (as if a *ceſſavit per biennium*, or a fine by colluſion, or the committing waſte, was found againſt the King's tenant by inquiſition) upon a *ſcire facias* brought, the party might at common law come in and defend the poſſeſſion, by ſhewing his title, and denying the matter found againſt him; for this was what the writ itſelf required; and it would have been very abſurd to ſay he ſhould not be admitted to do that which the very writ required him to do; and by the *ſcire facias* he was made privy, and had a day to plead. Som. arg. 75. 4 Co. 56. a.

So where the office contained the whole ſpecial matter.

So where the office contained the whole ſpecial matter, ſo that, though there might be ſuch matter found, as if it ſtood alone, would make a title for the King, yet if there was alſo found, in the ſame office, ſufficient upon the whole to ſhew a good title in the ſubject, the ſubject might inſiſt upon this matter, and pray an *amoveas manum*; becauſe in truth the very record upon which the King ſeized made a title for the party. Som. arg. 76. 4 Co. 55. a.

As

As if it was found that A. diſſeied B. of lands holden of the King, and that he aliened in mortmain, or died without heir, in this caſe B. might pray an *amoveas manum* upon the very record. So if it were found that the King's tenant at the time of his death held an acre of land of B. by leaſe for his life. 4 Co. 55. a. Kelw. 156. b. 157. a. 158. a.

So if the King's title appeared on record to be determined,

In like manner, if the title found for the King appeared by the record to be determinable upon performance of a condition, and that condition appeared upon record to be performed, the party might take advantage of it. As if land were conveyed to the King, upon condition to levy a fine of other land to the King or to enter into a recognizance to the King in a court of record; he who had performed the condition might ſhew his right at common law; for his title appeared of record, and there was no record which abſolutely entitled the King. 4 Co. 55. a. b.

Or were found ſo by office.

So if the performance of the condition, though not on record, were found by office, he might ſhew his right at common law: but in ſuch caſe, if the office found only title for the King, and omitted the right or title of the party, although all the words of the office were true, yet he could not ſhew his right, but was put to his petition. 4 Co. 55. b.

But at common law, where a falſe title was found for the King, the ſubject could not traverſe, nor have a *monſtrans de droit*.

But as the common law ſtood, wherever a title for the King only was found by matter of record, though it was falſe, the party could not traverſe it: ſo where a title was found for the King which was true, but it was diſcloſed in the record that the ſubject had a good right, which would avoid the title found for the King; yet the ſubject in that caſe could not have been admitted to ſhew it, but was ſo

far concluded as to be put to his petition of right. Som. arg. 76. cites 4 Co. 56. a. but quære.

So that according to lord Somers's opinion, and to 1. And. 180, 181, neither a *monſtrans de droit*, properly ſo called, nor a traverſe, lay for the ſubject at common law; although Lord Coke gives the name of a *monſtrans de droit* to thoſe proceedings which were always admitted to have been at the common law; that is where the ſpecial matter was ſo found as that upon the ſame record it did appear that the right was in the party and not in the King; whereas, properly ſpeaking, it is not the ſubject there who comes in and ſhews his right, but the King's own record ſhews it. Som. arg. 77.

Office for goods traverſable at common law.

But by the common law an office for goods or chattels perſonal might be traverſed. Stnd. prær. 60. 2 Inſt. 689.

As if a man be attainted of treaſon or felony, or outlawed in debt or treſpaſs, *&c.* and an inquiſition finds that he had ſuch goods at the time of the felony or outlawry a ſtranger who has the property may traverſe it. 4 Ed. IV. 24. a.

And offices for information.

So office for information only, as all offices under the Exchequer ſeal, are traverſable. Savil. 130.

Statute of 36 Ed. III. 13. Eng.

By the ſtat. 36. Ed. III. 13. Eng. it is enacted that if any one will put in a claim to lands ſeized by office, the eſcheator is to ſend the inqueſt into Chancery, and a writ is to be delivered to him to certify the cauſe of the ſeizin there; and there the party ſhall be heard without delay, to traverſe the office, or otherwiſe *ſhew his right*; and from thence ſent before the King to make a final diſcuſſion, without

without other command. And that if any come before the Chancellor and *ſhew his right* by good evidences, the Chancellor ſhall let the lands in debate to the tenant, yielding thereof to the King the value, if it pertain to the King, ſo that he find ſurety that he ſhall do no waſte or deſtruction till it be adjudged.

First gave a traverſe to all offices,

And by this ſtatute a traverſe is given to all offices found before the eſcheator or commiſſioners; to offices found *virtute brevis*, or *commiſſionis*, or *virtute officii*. Stand. prær. 61. a. 4 Co. 57. a. And it is held to extend to offices returned into the Exchequer. 4 Co. 59. b.

And a *monſtrans de droit*, properly ſo called.

And lord Somers is of opinion with Standford, that no book before this ſtatute did treat of a *monſtrans de droit*, properly ſo called; and that it was this ſtatute which gave the ſubject a right of interpleading with the King, where an abſolute title was found for the King by office; and that the ſubject is ſtill put to his petition in all caſes out of the remedy of that ſtatute; as in all caſes where the King is entitled by a judicial record. Standf. prær. 71. 6. Som. arg. 78.

The ſubject interpleading by way of traverſe is as a defendant.

And in this proceeding of interpleading with the Crown, by way of traverſe, the ſubject is in the nature of a defendant, and comes in and pleads to a title found for the King; and the judgment is *quod manus domini regis amoveantur*. And therefore, where that judgment cannot be given, the party ſhall not be admitted to traverſe a falſe office, or to interplead with the King, though the caſe be otherwiſe ſuch as comes within the remedy of the ſtatute of 36 Ed. III. Som. arg. 79.

Where defendant cannot have judgment of an *amoveas manum* he ſhall not traverſe.

As where a man has a remainder or reverſion expectant upon an eſtate of freehold, without any rent or profit, and a falſe office is found of the dying ſeiſed of ſuch a remainder or reverſion, he ſhall not be admitted to traverſe this falſe office; becauſe judgment cannot be given, *quod manus domini regis amoveantur.* 2 Inſt. 688.

To what caſes this act extends.

And this ſtatute has provided remedy in caſes where the King is entitled by office to land, by purchaſe of an alien born, or by alienation in mortmain, or by any ſuch title, which is matter of fact or *in pais*, and where the office is the ſole record which entitles the King. 4 Co. 59. a.

And it extends to caſes where the party grieved is not put out of poſſeſſion by the office. 4 Co. 59. a.

And in general, if the King be entitled by office or other matter of record that would be traverſable, if falſe, any man that hath right to the poſſeſſion of the freehold of the land, and is able to confeſs and avoid it, ſhall be received to ſhew his right. Stand. prær. 71. a.

To what not.

But this act extended not to any judicial record, as attainder, or recovery, but merely to caſes where nothing appears of record for the King, but only the office; for in caſe of attainder and office, the King is entitled by double matter of record; and therefore the party grieved, it was holden, ſhould avoid it by double matter of record, and not by ſingle traverſe, or *monſtrans de droit.* 4 Co. 57. a. b.

Stat. 10 Wil. III. c. 10. gives traverſe and *monſtrans*

By 10 of Will. III. c. 10. Eng. it is recited that ſeveral perſons holding lands, &c. for term of years, have been put out of their terms, by reaſon of inquiſitions

or

or offices found before eſcheators or commiſſioners, upon attainder or treaſon, felony, or otherwiſe, becauſe ſuch leaſes for * term of years were not found in ſuch inquiſitions or offices; after which the parties had been without remedy, during the King's poſſeſſion, and could have no traverſe or *monſtrans de droit*, their ſaid intereſt being but a chattel, and no eſtate of freehold: and it is likewiſe recited that where any perſon hath any rent, common, office, fee, or other profit *apprendre*, of any eſtate of freehold, or for years, or otherwiſe, out of any of the lands, *&c.* contained in ſuch offices or inquiſitions, where the King is entitled to ſuch lands, *&c.* the ſaid rent, *&c.* nor found in the ſame office, ſuch perſons were in like manner without remedy to obtain the ſaid rent, *&c.* by any traverſe, or other ſpeedy mean or way; for remedy whereof it is thereby provided, that where any ſuch office is found omitting ſuch titles, intereſts, or matters, as aforeſaid, every ſuch leſſee or tenant for term of years, and every ſuch perſon who ſhall have any intereſt to any rent, common, office, fee, or other profit *apprendre*, for term of years, life, or otherwiſe, out of any of the lands, *&c.* contained in ſuch office, ſhall † have, hold, enjoy, and perceive their leaſes, *&c.* in ſuch manner as they ſhould have done in caſe there had been no ſuch office found, and as they ſhould have done in caſe ſuch leaſe, *&c.* had been found in ſuch office.

de droit to termors. 2 and 3 Ed. VI. c. 8.

And it is likewiſe thereby provided that where it ſhall be untruly found by office that any perſon attainted of treaſon, felony, or premunire, is ſeiſed of lands, whereto

Or where the King was entitled by double matter of record.

* Under thoſe words are comprehended tenants by *elegit*, ſtatute ſtaple, *&c.* becauſe their intereſt is but a chattel real. 2 Inſt. 689.

† See a caſe in 2 Lutw 996, where a *monſtrans de droit* is pleaded, upon this ſtatute, to an inquiſition, and the concluſion of the plea follows the words of this clauſe of the ſtatute.

any

any other perſon hath any juſt title or intereſt, of any eſtate of freehold, every perſon grieved thereby ſhall have his traverſe or *monſtrans de droit* to the ſame, without being driven to any petition of right; and like remedy and reſtitution, upon his title found or adjudged for him, as hath been accuſtomed and uſed in other caſes of traverſe, altho' the King be in ſuch caſe intitled to ſuch lands of double matter of record.

The traverſes to ſue writs of *ſcire facias* againſt the King's patentee.

Provided, that in all caſes, where any perſons ſhall be enabled by this act to have any * traverſe, and ſhall purſue it, they ſhall ſue writs of *ſcire facias* againſt all ſuch perſons as ſhall have intereſt by the King or by his patents, in like manner as is requiſite upon traverſes or petitions heretofore purſued; and in every ſuch *ſcire facias* the patentees or other defendants ſhall have like pleas and advantages as they had in any *ſcire facias* theretofore awarded againſt any patentee in any caſe of petition.

And writs of ſearch to be granted as in caſes of petition.

And upon every traverſe purſued by virtue of this act, in ſuch caſe, as the party that ſhall purſue ſuch traverſe ſhould by the common law have been put to ſue by petition, there ſhall be two writs of ſearch granted, as like writs have been granted upon ſuch petition.

The proceeding on a *monſtrans de droit.*

When a man pleads to an inquiſition, that is a diſtinct record from the inquiſition; and ſo if another come in and plead his right, that is another diſtinct record; and if a demurrer be to any, then it is determined where the inquiſition is returnable, or may be ſent into B. R. to be argued and determined; but if iſſue be joined on it, then the

* This clauſe of the act doth not extend to a *monſtrans de droit*, becauſe the *monſtrans de droit* doth confeſs and avoid the title of the King, but the traverſe doth deny it. 2 Inſt. 691.

courſe

courſe is to award a *venire facias* out of Chancery, returnable at a day certain into B. R. to be there at the day of the return of the *venire facias*, but the inquiſition is never ſent thither, and the record is delivered into B. R. by the hands of the Chancellor, *&c.* Farr. 32. See Trem. ent. 654.

The perſon ſuing a *monſtrans de droit* is conſidered as a plaintiff. If the Attorney general confeſſes his title, or if it be found for him by verdict or upon demurrer, judgment ſhall be *quod manus domini regis amoveanter.* And he ſhall likewiſe have judgment for the meſne iſſues and profits. If he has no title, he ſhall be nonſuit; and he cannot have judgment tho' the King has no title, if he himſelf has no right. See Com. Dig. v. 4. p. 422.

The perſon ſuing a *monſtrans de droit* is as a plaintiff.

But the traverſer of an inquiſition, as has been ſaid, is to be conſidered as a defendant, oppoſing the title found for the Crown, without ſetting up any title in himſelf; and he is not intitled to carry down the record to trial. Strange. 1208.

But a traverſer as a defendant.

If a man traverſes an inquiſition, he is obliged to give * ſecurity, which is uſually to the value of two years profits of the land, becauſe in that time it is intended the right of the Crown and party will be determined. 2 Veſ. 270. Bunb. 25.

Security given by traverſer.

* In the caſe of the King againſt the tithes of Jerpoint, in this court, Trin. Term 1749, the tenant of the tithes, upon notice, and motion grounded on an affidavit, got liberty to traverſe an inquiſition taken on a writ of ſeizure, upon which they were ſeized into the King's hands for an arrear of Crown rent; and accordingly filed his plea of traverſe, firſt entering into ſecurity before the lord chief Baron by recognizance to be anſwerable for the value of the rent, if adjudged againſt him; and afterwards obtained an *amoveas manum.*

A perſon.

Traverſer muſt make title in himſelf.

A perſon who traverſes a title found for the King ſhould in the inducement to the traverſe alledge his own title; for no man ſhall have lands out of the King's hands without making a title juſtly and truly; for the Attorney general may, by the King's prerogative, either take iſſue upon the traverſe or upon the title of the traverſer. 2 Inſt. 695.

Grantee of an annuity of the revenue has no remedy but by petition of right.

King Charles the IId having by letters patent granted to a man and his heirs an annuity out of the revenue of the exciſe, with a direction to the high treaſurer, chancellor, under treaſurer or chamberlain, barons, and all other officers of the court of Exchequer, to perform all acts neceſſary for the due payment thereof, the grantee came before the barons and prayed that the letter patent might be enrolled, which was ordered; whereupon he prayed payment of the arrear due to him, to which the Attorney general demurred; and the grantee joined in demurrer; and the barons of the Exchequer gave judgment that the arrear be paid to him at the receipt of the Exchequer, by the hands of the commiſſioners of the treaſury and chamberlains, out of the revenue of the exciſe. Upon which judgment a writ of error was brought in the Exchequer chamber, where the judgment was reverſed by lord Somers, then Lord Chancellor of England, in a very learned and elaborate argument, in which he proves clearly that the barons of the Exchequer had no ſuch power; and that the grantee had no other remedy at law but a petition of right. Trin. 7. W. III. Attorney general v. Homby, &c. Somers's Arg. 5 Mod. 29.

CHAP.

CHAP. XXX.

OF CUSTODIAMS.

A * *cuſtodiam* is a leaſe from the Crown, under the Exchequer ſeal, of lands, houſes, *&c.* which were before ſeiſed into the King's hands, to ſome perſon as cuſtodee or leſſee thereof; on which *cuſtodiam* there is a ſmall annual rent reſerved to the Crown. A *cuſtodiam*, what.

And theſe *cuſtodiams* are principally, in the caſe of debts due to the Crown, and of rents reſerved on grants from the Crown of lands, rectories, *&c.* in which caſes they are granted, upon motion to the court by the ſolicitor for the Crown, upon the return of an inquiſition on a writ of ſeizure. For debts or rents due to the Crown.

Or they are upon outlawries in civil ſuits between party and party; in which caſes, upon motion of the plaintiff in the action by his attorney, upon a copy of the † eſtreat Or on outlawries in civil caſes.

* Thoſe *cuſtodiams* are taken notice of by lord Coke in his 4 Inſt. 111. who ſays, that to the end that no lands in the King's hands, which ought to be to the King's profit, ſhould be without a farmer that ſhould yield a rent to the King, the treaſurer in certain caſes, and with certain cautions, ought to make a warrant to the great ſeal for demiſing thereof; and he ſays, that by many precedents the lord treaſurer may make a warrant to grant the lands extended either for years, or *quam diu in manibus noſtris fore contingerint.*

† Formerly theſe outlawries did not come into the court of Exchequer by eſtreat; but the record being removed into Chancery was from thence tranſmitted into the Exchequer; and ſo were the reverſals of ſuch outlawries. And then theſe *cuſtodiams* were granted to the plaintiff in the ſuit, and the whole extended value uſed to be reſerved thereon.

of the court of Common pleas of the * inquiſition, on the *capias ut legatum* in the outlawry proceſs, a *cuſtodiam* is granted to the plaintiff in ſatisfaction of his debt. See Cha. 15.

Injunction on them, and order on tenants to pay their rents to the cuſtodee.

And in the order for the *cuſtodiam* an ‡ injunction is awarded, directed to the ſheriff of the county, to put the cuſtodee in the poſſeſſion of the lands; and upon this injunction the ſheriff may give the cuſtodee the actual poſſeſſion, if the land be out of leaſe; and upon the return of the writ, if the lands be in leaſe, the cuſtodee will be entitled to the gale of rent which ſhall next fall due; and an order will be obtained, by an attorney's motion, on ſuch injunction, that the tenants ſhall pay their accruing rents one half year before the other ſhall become due; but if the gale fall due between the execution of the injunction and the obtaining the order, the order will be that the tenants do pay the laſt gale to the cuſtodee, and the accruing rents one half year before the other ſhall become due; but in the firſt caſe the cuſtodee cannot com-

* All inquiſitions on writs of *capias ut lagatum* are to be delivered into the court of Common pleas to be eſtreated, four days at leaſt before the laſt day of each iſſuable term, or they will not be afterwards received; and then a motion is to be made in the court of Common pleas, upon the laſt day of the term, for an order or rule to eſtreat the inquiſition; and upon a copy of this eſtreat, and upon an attorney's motion to the court of Exchequer on the laſt day of the term, or on any day in the ſittings after the term, a *cuſtodiam* is awarded.

‡ A perſon being outlawed at the ſuit of J. S. who got a leaſe from the Crown, and took out a *levari*, but could have no benefit of that proceſs, being obſtructed, it was moved, on his behalf, for an injunction to put him into poſſeſſion, but the court refuſed it; for that he might have an action of treſpaſs for the profits; it was alſo ſaid he might have an ejectment; but the reporter adds a quære. Tiffin v. Jackſon, Hill. 1728, Bunb. 261.

pel the payment of any rent but ſuch as was unpaid at the time of the ſervice of the order; and in the other, only ſuch as became due after the conceiving the order and was unpaid at the time of the ſervice.

On ſervice of the order the rent muſt be demanded perſonally.

When the order has been ſerved, and the time for payment of the rent is come, the rent muſt be demanded from the tenant perſonally, by the cuſtodee or ſome perſon impowered by him by letter of attorney, which muſt be ſhewn to the tenant; but if the tenant is not to be met with, ſo as to be perſonally ſerved, upon affidavit thereof, and that all poſſible means have been uſed to give ſuch ſervice, the court will order ſuch other ſervice as the nature and circumſtances of the caſe will admit.

Further order that tenants pay their rent by a certain day or be attached unleſs cauſe.

Then upon an affidavit of the demand of the rent, a further order is conceived, upon motion of counſel, that the tenants do pay their rents by a certain day, or ſhew cauſe why they ſhould not be attached; and if no cauſe be ſhewn within the time ſo given, upon certificate thereof, and motion of counſel, the order is made abſolute, and the attachment may iſſue. So that the firſt order is but a cautionary proceeding to prevent the rents being paid away in the mean time; though it is often attended with a conſiderable additional expence to the debtor.

Order in caſe of tithes that the occupiers ſet them out.

Where tithes are ſeized by the Crown for an arrear due of a rectory, and the tithes were not leaſed out before the inquiſition, the order muſt be that the tenants and occupiers of the premiſſes do ſet out their reſpective tithes to the cuſtodee or his order, as the ſame ſhall from time to time grow due.

If lands unſet, order may be had to ſet them.

If the lands or any part of them be in the defendant's own hands, the court, upon affidavit thereof, and on counſel's motion thereon, without notice, will order them to be ſet by the officer of the court.

Defendant may obtain order for cuſtodee to account before the treaſurer's remembrancer

When the plaintiff or cuſtodee has been in poſſeſſion for a conſiderable time, it is uſual for the defendant or a ſecond cuſtodee to move that he may account on the foot of the *cuſtodiam*, before the treaſurer's remembrancer; and if, upon ſuch account, the plaintiff appears to be paid, then upon the officer's report thereof, the *cuſtodiam* will be diſſolved.

Proceedings thereupon.

And the method of proceeding in ſuch caſes is thus, viz. the ſecond remembrancer iſſues ſummons, and thereby appoints the time and place for attending him; and this ſummons is to be ſerved twenty-four hours before the time of attendance. And the plaintiff is then to file his charge, which is to contain the debt due to him at the time the *cuſtodiam* was granted; and the other party files his diſcharge, which is to contain the ſeveral ſums which the plaintiff hath received out of the lands, ſince the poſſeſſion was given him, if the lands have been ſet to tenants; or the yearly value thereof, if the lands have remained in the poſſeſſion of the plaintiff.

Officer's report how confirmed.

And when the account is finiſhed the officer is to draw up his report; which is to be ſerved on the plaintiff's attorney, and confirmed in like manner as a report in the equity ſide of the court. And when the laſt motion is made for confirming the report, if the plaintiff is paid, counſel may at the ſame time move to diſſolve the *cuſtodiam*, which the court will order accordingly.

When

When an outlawry in the * Common pleas, on which a *cuſtodiam* has been founded, is reverſed there, upon a certificate thereof, it is a motion of courſe to move to diſſolve the *cuſtodiam*; and the order is, that the *cuſtodiam* be diſſolved upon payment of coſts to the plaintiff; and the officer immediately iſſues a *ſuperſedeas* to the *cuſtodiam*, with a clauſe of reſtitution, to put the party in poſſeſſion, in the nature of an *amoveas manum*. But in ſuch caſes the coſts ſhould be paid before the *cuſtodiam* is diſſolved, or reſtitution given; however it is often practiſed otherwiſe, and the court then directs the *cuſtodiam* to be retained, which ſeems ineffectual and abſurd after reſtitution.

Cuſtodiam how diſſolved on reverſal of the outlawry.

Alſo when a defendant gives † bail to an outlawry in the court of Common pleas, the court of Exchequer on certificate thereof, and on motion by an attorney, will make the like order.

Or on bail being given.

* On the death of the defendant if the outlawry be on meſne proceſs (under which is comprehended a judgment in any other court) the Common pleas will, on affidavit thereof, reverſe the outlawry. But it is ſaid that they will not reverſe an outlawry upon judgment after the death of the defendant. Quœre the reaſon of the diſtinction.

† In the caſe of Nagle v. Fuller, in C. P. 1770, the plaintiff having outlawed the defendant, and obtained a *cuſtodiam* of his lands, and being in poſſeſſion for ſome years, the defendant obtained, as of courſe, a rule to reverſe the outlawry for want of proclamations, on the terms of giving ſecurity to pay ſuch ſum as ſhould be adjudged, or ſurrender the body of the defendant; which rule was agreeable to the practice for forty years paſt. But upon notice to ſet it aſide, the propriety of the practice was taken into conſideration; and the court was of opinion that the power of the court to reverſe outlawries for want of proclamations depended merely on the ſpecial proviſion of the 11 Ja. I. c. 8. the terms of which ought to have been ſtrictly purſued; viz. that the bail ſhould be *to ſatisfy the condemnation*; and that the defendant had no right to give it in the alternative, as here, which would not be equally beneficial to the party.

And

Or on conſent.

And the *cuſtodiam* may be alſo diſſolved on producing to the court a conſent from the attorney for the cuſtodee for that purpoſe.

The proceedings thereupon.

And in any of theſe caſes the proceeding is, thus, viz. the party againſt whom the *cuſtodiam* is, his heir or repreſentative, is to move the court by his attorney, on a certificate of the reverſal of the outlawry, or of the bail, *&c.* and on a conſtat of the *cuſtodiam* from the clerk of the pipe, for which he is to pay five ſhillings and ten pence, and on ſuch motion the court will order the *cuſtodiam* to be diſſolved, paying coſt. Then he is to get a debet from the clerk of the pipe, which is a particular of the rent due on the *cuſtodiam*, for which debet he is to pay eleven ſhillings and ſix pence; and he is to carry the debet to the treaſury, where he is to pay the ſum contained therein, and to get an acquittance for it; and on the acquittance the ſecond remembrancer will make out the order for diſſolving the *cuſtodiam*, for which he is to pay thirteen ſhillings and ſix pence; and on producing this order to the clerk of the pipe, he will ſtrike the annual rent out of the *cuſtodiam* rent book.

Cuſtodee to account before the officer only for the extended value.

It is ſaid that where there is an account directed on a *cuſtodiam*, the cuſtodee is not accountable before the officer for more than the yearly value returned by the inquiſition, altho' the real value be conſiderably more, and that the tenants have paid the ſame to the cuſtodee, under the order of the court; for that the cuſtodee is not intitled at law to charge the defendant with intereſt ſubſequent to the *cuſtodiam*; and therefore, if by the perception of the rents he has received more than is ſufficient to diſcharge both principal and intereſt, it is reaſonable that the debtor ſhould

ſhould be compelled to go into a court of equity for relief, where if he ſeeks for equity, he muſt do equity by allowing intereſt.

And muſt account for the extended value, although he has not received any thing.

In the caſe of the executor of Concannon v. Reynolds, in this court, Hillary term, 1756, it was held to be the courſe of the court upon an account on a *cuſtodiam*, for the officer to charge the party with the extended value, if he has been in poſſeſſion, although he has not received one ſhilling; for that he ſhould have enforced his order on the tenants for the payment of the rents, and a ſubſequent cuſtodee ſhould not ſuffer by the wilful default of the firſt cuſtodee; but if it appears to the court that he has not received his debt, by default of the tenants in not paying him, the court will grant him an order enabling him to receive the arrears due from them.

Cuſtodee can levy no more than the extended value, and cannot enter and take all the profits, qu.

A. had judgment againſt B. and afterwards C. obtained judgment againſt B. and outlawed him upon it; whereupon his lands were extended, of the value of £120 per annum, and ſeiſed into the hands of the Crown; afterwards a moiety of them were extended by virtue of an elegit upon the firſt judgment; and C. obtained a leaſe of them out of the Exchequer, upon the extent upon the outlawry, *quam diu*, &c. but levied only the ſaid £120 per annum out of the moiety extended, as above; and permitted B. and his tenants to enjoy the reſidue of the profits to the value of £378 a year. Upon an Engliſh bill brought by A. C. was decreed to account with him for all the profits, which he had or might have received, without wilful or negligent default. Afterwards the court held, that the leſſee could levy no more than the extended value, and could not enter and take all the profits; for that the Crown had no intereſt in the lands extended, but only the perception of profits; but that the party might take out a *melius inquirendum*

rendum and have them extended at a greater value; and it was agreed that A. ſhould take C's place, and pay him two hundred per annum, till C's debt was ſatisfied, and the outlawry to remain in force; and the extent upon the elegit, after the extent upon the outlawry, was held void, as to the Crown. Hardreſs 106.

If plaintiff died, *cuſtodiam* to be renewed to the executor.

If the plaintiff die, after the outlawry of the defendant, whether upon meſne proceſs or judgment, the *cuſtodiam* ſhall be granted to the executors of the plaintiff; and if the plaintiff die after the *cuſtodiam* granted to him, an order is obtained of courſe to renew the order which was obtained upon the *cuſtodiam*, and that the tenants may pay the rents and arrears which were due under the *cuſtodiam* to the preſent plaintiff, the executor or his order, as alſo the rents which accrued due ſince the deceaſe of the cuſtodee, and the accruing rents, one half year before another becomes due; copies of which order are to be ſerved on the tenants.

Aſſignee of a *cuſtodiam* cannot renew order in his own name.

In the caſe of Browne againſt Monkton in the Exchequer here, 1ſt March, 1756, it was declared by the court, that where a *cuſtodiam* is aſſigned, the aſſignee cannot renew the order in his name for the tenants to pay their rents.

Traverſe or plea muſt be by leave of the court, and on notice to Attorney general.

If any perſon would traverſe or plead to the inquiſition, he muſt give notice to the * Attorney general, and apply to the court by motion, grounded upon an affidavit; and to

* Upon this notice a fee of two guineas hath been uſually paid to the Attorney general; as is the caſe upon all conſents, motions for liberty to bring ejectments, and other motions whatſoever upon theſe *Cuſtodiams*, where it is conceived the right of the Crown is concerned, upon this principle, (as it is ſaid) that although the plaintiff in theſe outlawries in civil actions, is permitted to have the benefit of them, yet the goods and chattels of the outlawed perſon, as alſo the profits of his lands, while the outlawry is in force, remain in the Crown. Another alleged reaſon is,

to ſuch plea or traverſe the Attorney general may either reply or demur; and the proceedings thereupon are as in other caſes at common law. See Long againſt Hodges in this court, Mich. 1766.

Money levied by the ſheriff on a *levari*, paid to the party pleading, on giving ſecurity.

A. was outlawed at the ſuit of B. Paſch. 8. Geo. an inquiſition was taken thereupon, and returned into the Exchequer; and a *levari* iſſued, returnable, Hill. 9 Geo. by virtue of which the ſheriff levied £120. C. who had a ſtatute merchant againſt A. for £1000, May 7 Geo. and was in poſſeſſion of the land, moved for time to plead to the inquiſition, and that, upon giving ſecurity, the money in the ſheriff's hands might be paid to him; which was granted, and ſaid to be the conſtant courſe of the Exchequer. Bunb. 123.

Inquiſition may be quaſhed in C. P.

If a motion be made to quaſh the inquiſition, it muſt be in the court of Common pleas, where it is recorded.

But not for want of preciſe certainty it being only an office of inſtruction.

It was found by inquiſition upon an outlawry that the party outlawed was ſeiſed in fee *de ſex clauſis prati et paſturæ*; and it was moved that this inquiſition was void for uncertainty; but the chief Baron ſaid that an inquiſition found *de uno meſſuagio ſive tenemento* had been held good; becauſe it is not an office of entituling, but of inſtruction or information, which does not require ſuch preciſe certainty as an office of entituling does; ſo in an inquiſition upon an extent upon a ſtatute, or judgment, or in dower, ſuch certainties ſuffice; elſe all inquiſitions

is, that there is an annual rent of 5 ſhillings or 10 ſhillings reſerved to the Crown upon the *Cuſtodiam*.

But this matter of the landlord being obliged to get the conſent of the Exchequer, on this fiction of the King's prerogative in this proceeding, is not one of the ſmalleſt grievances attending it, it being almoſt impoſſible for the landlord to be certain whether the lands be in *Cuſtodiam* or not, unleſs he knows the names of all the creditors of his tenant; beſides the expence attending the aforeſaid motion and the ſearch for *Cuſtodiams*.

were liable to be quaſhed; which would annul all ſuch proceedings, which would be miſchievous; and ſuch inquiſitions have not uſed to be quaſhed for want of ſuch preciſe certainty. Hardreſs rep. 191.

Plea to an inquiſition that the party outlawed is dead, good without ſetting forth title.

Upon an outlawry of the defendant's huſband, there iſſued an extent, and an inquiſition was taken thereupon, which found that the huſband was ſeized of lands in right of his wife, and in *jure ſuo*, the eſtate was ſeized into the King's hands; the defendant pleads as terre-tenant, that her huſband died, and prayed that the King's hands might be amoved, and ſhe reſtored to the poſſeſſion and profits, without ſetting forth any title. It was objected that it ought to appear upon record that the defendant had a title, before the King's hands could be removed; but it was anſwered that where the Crown is intitled to the profits, to plead as terre-tenant is ſufficient, without ſetting forth a ſpecial title; and an inquiſition on an outlawry is an office of inſtruction only. And the plea was allowed by the court, it being the uſual method of pleading the death of the party outlawed; and upon affidavit of the fact, the Attorney general uſually allows the plea, which is the moſt ſummary method; there being after the parties death, no title ſubſiſting in the Crown. Feb. 1721. Bunb. 102.

Moving for a *moveas manum* without a rule on the Attorney general to reply, irregular.

In the caſe of Johnſton v. Johnſton in this court, Mich. 1756, the defendant was outlawed at the plaintiff's ſuit on a judgment, and a *cuſtodiam* and injunction iſſued thereon, and the plaintiff was put into poſſeſſion of land, which was ſettled upon the defendant's wife on her marriage. Upon the death of the defendant, a motion was made on behalf of the wife to diſſolve the *cuſtodiam*, or for liberty to plead to the inquiſition, and the court having given liberty, ſhe pleaded the death of her huſband, and ſet out her title, and then moved for an *amoveas manum*. The Attorney

Attorney general attended to confeſs the death of the huſband *ore tenus*; but there was no rule put on him to reply; wherefore the court held that the motion was irregular, as the Attorney general might controvert the wife's title in his replication, and a rule was put on the Attorney general to reply.

Where two *cuſtodiams* and injunctions iſſue the ſame day, firſt poſſeſſion gives priority.

In the caſe of the executors of Blake cuſtodee againſt Lynch in this court, 12th December 1747, a motion was made on behalf of John Kirwan another cuſtodee, to ſet aſide the ſeveral orders on the tenants for payment of their rents to the plaintiff, for that Kirwin's inquiſition on the *capias utlagatum* was held and taken before the plaintiff's, and that he was firſt put into poſſeſſion by the injunction on the *cuſtodiam*. On the other ſide, it was urged for the plaintiffs that their outlawry was after judgment, and Kirwin's only in debt, upon meſne proceſs; that both the *cuſtodiams* and the injunctions thereon iſſued on the ſame day; that the plaintiffs obtained the firſt order to oblige the tenants to pay their rents to them, and ſerved the tenants therewith, and therefore ought to have a preference. But the court ſaid the priority was according to the firſt poſſeſſion on the injunction; and ſet aſide the ſeveral orders on the tenants to pay their rents to the plaintiffs.

Lands ſeized upon outlawry and inquiſition not to be extended on an elegit on a precedent judgment.

A. outlawed B. in debt on a bond, and by virtue of a ſpecial *capias utlagatum* and inquiſition ſeized his lands into his Majeſty's hands; afterwards the outlawry and inquiſition were certified into the Exchequer, and A. obtained a leaſe under a rent; C. comes and pleads that before the outlawry he recovered judgment againſt B. upon which he took out an elegit, and had a moiety of the lands extended, and therefore prays that an *amoveas manus*

might be awarded. The Attorney general replied, that the lands were ſeized by virtue of the outlawry and inquiſition, long before the elegit was ſued; and upon demurrer, judgment was given for the King by the court of Exchequer, and affirmed in the Exchequer chamber; for that this was the practice of the court of Exchequer in this caſe, and conſequently to be conſidered as part of the law. That when lands are ſeized into the King's hands, by virtue of an outlawry and inquiſition, the King's hands were not to be removed, by force of an elegit ſued afterwards, though upon a judgment precedent. That this was not merely the courſe of the court, but alſo agreeable to the rule and reaſon of the law. C. had no intereſt in the land, till he ſued his elegit; whereas the King's title to the land was compleat by the outlawry, and inquiſition, which was prior to the elegit; and a judgment of itſelf doth not affect the land till election made, it being only an award of the court aſcertaining of the debt, and declaring that the plaintiff ſhould recover; though when the ſuit is ended by a judgment, the party may reſort to an elegit if he thinks fit, and can find any thing ſubject thereto; but even the elegit itſelf does not immediately touch the land; for if the chattels be ſufficient to pay the debt, and it ſo appears to the ſheriff, they ought not to extend the land, as appears by the frame of the writ. And the elegit cannot by law have relation to the time of the judgment, ſo as to avoid the King's title; a relation being only a fiction; and fiction ſhall never bind or prejudice the King in his right or his prerogative. King v. Baden. Showers par. caſes 72.

Blunt

Blunt made a mortgage for * years to Atfield for fifty pounds, of which eight years were to come; Blunt was outlawed, and a *capias utlagatum* iſſued, and an inquiſition was taken thereupon in December 1720, and this term for years was found, and ſold by virtue of a *venditioni exponas*, which iſſued in November 1721, and was returnable in *octavis ſancti Hilarii*; but no notice was given to the mortgagee, who was not in poſſeſſion, (the intereſt being regularly paid.) It was therefore now moved on the behalf of the mortgagee, that he might be at liberty to plead to the inquiſition, not having had any notice; and for that if he was to bring an ejectment, in that action they could not try the validity of the inquiſition; for the term is bound by the inquiſition, and ſeiſed into the hands of the Crown, and the King's title ſhall not be conteſted in ejectment; and that therefore the mortgagee would be without remedy, unleſs he ſhould be permitted to plead. In anſwer to which it was ſaid that the inquiſition was notice in law; and the method propoſed would tend to defeat purchaſers for a valuable conſideration, under the ſale of the ſheriff. But the reporter adds a note that the mortgagee never was in poſſeſſion, and ſo could not take notice of the proceedings upon the inquiſition.

Whether a mortgagee out of poſſeſſion, ſhall traverſe the inquiſition.

It was alſo further objected on behalf of the mortgagee that the *venditioni exponas* was void; for that by the outlawry the † profits are only forfeited to the King, but

Whether a term for years found by the inquiſition may be ſold by *venditioni exponas*.

* It appears by the arguments, though not ſo ſtated, that the mortgage was of a term for years.

† It ſeems not very clearly ſettled in the old books, what intereſt the King has in the lands of a perſon outlawed in a civil action. In the year book 9 H. 6. 20. Br. patents 3. the authority moſtly relied on for this purpoſe, it is ſaid that the King

but that the ſheriff has ſold the term itſelf. And this was a doubt with the court, whether the ſheriff can ſell a term upon an outlawry, as he may a * chattel perſonal, and as he may a chattel real upon an † extent or judgment. The court ſeemed inclined to permit the mortgagee to plead; but referred it to the deputy to ſtate the fact, that they might more fully conſider it. Bunb. 104. See Bunb. 220.

The practice here as to mortgagees out of poſſeſſion.

In the caſe of Minchin againſt Fitzgerald in the revenue ſide of the Exchequer here, Hil. term 1763, on a motion on behalf of the earl of Kildare, a mortgagee out of poſſeſſion, to traverſe an inquiſition upon a *capias utlagatum*, it

King can only take the profit rents, &c. but cannot till, or cut down trees, or ſeiſe the land. In 21 Hen. 7. 7. it is ſaid that the King has not any poſſeſſion of the land. But in the modern books, the King is ſaid to have a pernancy of the profits, Hard. 176. 1 L. Raym. 307. which ſeems to imply an eſtate in the land. And by the *cuſtodiam* the King grants the cuſtody and farm of the lands; and in 4 Inſt. 112 it is ſaid that where ſuch grant was pleaded as a demiſe of the land, it was holden good.

As to leaſes for years it is holden in the ſame year book of 9 Hen. 6. that they, like other chattels, are forfeited to the Crown; but it is to be conſidered that antiently they were of ſhort duration, and of inconſiderable value; or they would probably have fallen under the ſame determination as lands of inheritance, ſince like them they are not forfeited, till found by inquiſition; whereas perſonal chattels are forfeited abſolutely by the outlawry, without any inquiſition. 1 Salk. 395.

* In the caſe of Quin. v. Widenham, in this court, Hill 1773, a motion was made on behalf of the plaintiff in the action that a *venditioni exponas* ſhould iſſue to the ſheriffs of the city of Limerick to ſell ſome terms for years, which the defendant after outlawry was found by inquiſition to be poſſeſſed of. But the motion was refuſed. And it was ſaid by the deputy ſecond remembrancer, which the court acquieſced in, that ſuch writ did not iſſue here, but in caſe of goods. He likewiſe inſiſted on what ſeemed to him to be more material, that the office would loſe its profits upon the *cuſtodiam*, injunction, &c.

† See Bunb. 71. where the court refuſed to order a *venditioni exponas*, where a term was found upon an inquiſition taken upon an extent; but granted an injunction to put the Crown into poſſeſſion.

ſeemed

ſeemed to be the unanimous opinion of the court, not to permit the mortgagee to traverſe the inquiſition; but the matter was compromiſed, before the court determined it. However this ſeems to be the general * uſage of the court.

A bill was brought to be relieved againſt a judgment in ejectment, which was obtained by virtue of a purchaſe under a *venditioni exponas* of a term of years, upon an outlawry of the plaintiff, who inſiſted his title was a fee, and not a term for years; to which the defendant pleaded the

Plea of a purchaſe under ſuch ſale allowed.

* However eſtabliſhed this practice may be, it ſeems not clearly reconcileable with the principles of law or juſtice. The determination in the caſe of the King v. Baden, Sho. Ca Parl. (ſo much relied on) by which a prior judgment creditor is poſtponed to a ſubſequent one, who obtains a *cuſtodiam* of the conuſori lands, ſeems to be a ſufficient ſtretch of the prerogative in favour of the party. But the caſe of a mortgagee is much ſtronger A conuſee of a judgment has no intereſt in the land until he ſues an elegit, whereas the mortgagee has a legal and beneficial eſtate, until redemption. Why then the court ſhould aſſume a diſcretionary, if not an arbitrary power, in precluding a fair creditor from exerciſing that right which every ſubject has by law, of traverſing or pleading to a falſe office found for the Crown, by which his property is affected; why a bond, or even ſimple contract creditor, who lends his money upon the general credit of the borrower, ſhall by a partial preference be ſuffered to truſt the mortgagee out of the ſingle pledge, upon which he relied for his ſecurity, or why that prerogative of the Crown, which ſhould never be made uſe of in aid of the ſubject, but for the advancement of juſtice, ſhall in this inſtance be perverted to the defeating the end of juſtice, ſeems to require ſtronger reaſons, than are uſually urged in ſupport of the practice; a practice which ſeems to involve thoſe abſurdities, that the pledge of the mortgagee is not perfectly ſecure until the death of the mortgagor; and that the mortgagee is to take care not only that the mortgaged lands are free from incumbrances at the time of his advancing his money, but likewiſe that the mortgagor contract no debt afterwards. As to the diſtinction between a mortgagee in and out of poſſeſſion, it ſeems to be an uſeleſs one. Its well known no mortgagee chuſes to enter into poſſeſſion, otherwiſe than by receiving his intereſt.

But what appears to be no ſmall additional grievance, is that thoſe determinations are made in a ſummary manner upon motion, whereby the party aggrieved is deprived of any redreſs by writ of errror. In the caſe of the King v. Baden the party had liberty to plead and the matter was determined upon demurrer, and a writ of error was brought in the Exchequer chamber.

purchaſe

purchaſe under the outlawry; and it was allowed. Gilb. rep. 184.

Upon an outlawry and *capias utlagatum* the landlord relieved as to a year's rent.

A. who was tenant to be B. being outlawed at the ſuit of C, his goods were ſeized by proceſs on the outlawry, but ſtill remained in the ſheriff's hands; it was moved in the Exchequer, upon the ſtat. 8 Ann, c. 14. that the landlord might be ſatisfied one year in arrear, out of the money in the ſheriff's hands; and the court ordered it accordingly; becauſe the *capias utlagatum* was in this caſe to be conſidered only as a private execution, and only auxiliary to the party. Bunb. 194.

Liberty given to plead to an inquiſition, after a *venditioni exponas*, and the term ſold.

A. was outlawed, and by an inquiſition taken thereon, it was found that he was poſſeſſed of a term for years *in jure uxoris*; after his deceaſe a *venditioni exponas* iſſued, and the term was ſold. The widow moved that ſhe might be at liberty to plead to the inquiſition, which was granted; although it was objected on behalf of H. the purchaſer, that he had purchaſed under the ſanction of the court, had ſince brought an ejectment which was defended by her, that ſhe had brought a writ of error, and alſo a bill in Chancery relating to this matter: but, *per curiam*, though ſhe has been wrong adviſed, we will not deprive her of the liberty of pleading now. Bunb. 220.

Where lands are granted in *cuſtodiam*, ejectment cannot be brought without leave of the court.

In the caſe of Tyrrell v. Reynolds, in this court, Mich. 1759, it was determined, that where lands are in *cuſtodiam*, a party ſhall not bring an ejectment againſt them, without leave of the court of Exchequer; and one John Taylor, who in this caſe had brought ſuch an ejectment, was not only ordered not to diſturb the plaintiff the cuſtodee, but to pay him all the coſts of his applications upon this occaſion, or an attachment to iſſue againſt him. And on this motion

motion the caſe of Thornton and Nudigate, in this court, Mich. 1747, was cited; in which caſe, it appearing that Mr. Damer, the perſon who applied for leave to bring the ejectment, had a mortgage of part of the lands in *cuſtodiam*, prior to the judgment and the outlawry on which the *cuſtodiam* was obtained; as alſo a mortgage of others of the lands therein, ſubſequent to the judgment; the order was confined to the lands in the prior mortgage only.

And note, when ſuch application is made to the court of Exchequer, for leave to bring an ejectment, it muſt be brought in that court.

And it muſt be brought in that court.

Where the lands of a leſſee are granted in *cuſtodiam*, and his tenants pay their rents to the head landlord, they ſhall not be attached for not paying them to the cuſtodee upon the order on the injunction; becauſe the debt of the leſſee ought not to deprive the landlord of his rent. So agreed by the court in the caſe of Carmichael v. Stuart, July, 1773.

Under tenants of perſon outlawed may pay their rents to the head landlord.

In the caſe of Tuite againſt Tuite, in this court, July 15, 1773, a motion was made to attach tenants for paying rents to a jointure widow, by ſettlement long prior to the *cuſtodiam* and injunction, who had been alſo in poſſeſſion by receipt of the rents; but the court refuſed it with coſts.

Tenants may pay a jointureſs.

A. was outlawed at the ſuit of another perſon, and lands in his poſſeſſion extended; a third perſon that claimed a title to them brought an ejectment for them, and pleaded to the inquiſition; and an injunction was prayed for the King to ſtay proceedings at law; but it was denied; becauſe, although a perſon outlawed cannot after the extent prevent or avoid the King's title by alienation; yet the

Diſſeiſee may bring his ejectment notwithſtanding the inquiſition.

outlawry gives no ſuch privilege to the poſſeſſion of a diſſeiſor, but that the diſſeiſee may enter and bring his ejectment; for by the outlawry the King has a title only to the profits, and no intereſt in the land. But it was ordered that the plea to the inquiſition ſhould be tried firſt. Hard. 176.

Rule, 10th July, 1685. Ordered by the court, that in all outlawries in treſpaſs as much rent be reſerved to his Majeſty as the King's ſilver ſhall amount unto, if the ſame ſhall be made appear to have been for debt, in regard the King's Majeſty would be defrauded of the King's ſilver. And where the outlawry is really for treſpaſs, then his Majeſty to have the meſne profits until ſuch outlawry be reſerved *.

Rule, 1ſt Feb. 1711. A complaint being made to the court this day, that Roth Jones, Eſq; having by a former order of this court, taken on the chief remembrancer's ſide, licence to bring an ejectment againſt a cuſtodee, brought and commenced the ſaid ejectment out of this court, contrary to the intention and antient uſage thereof; it is thereupon this day ordered, by the court, that in all caſes where any perſon or perſons ſhall at any time hereafter have any leave or licence to bring or commence any ſuit in ejectment againſt any cuſtodee or cuſtodees of the Crown, for recovery of any lands, tenements, or other things granted in *cuſtodiam* to him, or them, ſuch ejectment ſhall be brought or commenced in

* This rule ſeems not to be very intelligibly penned; however, the conſtant courſe now is to reſerve five ſhillings on all *cuſtodiams* for debt, and ten ſhillings where it is for treſpaſs, and the damages uncertain; though, upon the ſtricteſt ſearch, I cannot find any rule made for that purpoſe ſince the above rule.

this

this court, and no where elſe; and that this order be and is hereby made a ſettled and ſtanding rule of this court.

The court taking into their conſideration the many difficulties on tenants, by reaſon of ſeveral orders on different *cuſtodiams* of the ſame lands and premiſſes, requiring the tenants to pay their rents to ſeveral different cuſtodees; it is ordered, that for the future, no order be made on the tenants to pay their rents to a ſubſequent cuſtodee, without notice firſt given to the prior cuſtodee or cuſtodees of the ſame premiſſes. Rule, 17th July, 1736.

It was this day ordered by the court, that upon the renewal of *cuſtodiams* and injunctions which became void on the demiſe of his late Majeſty, all orders obtained by the cuſtodees on their reſpective firſt *cuſtodiams* do ſtand revived; and that the ſame be inſerted in the orders made on the returns of the new injunctions, for the tenants to pay their rents and arrears to the reſpective cuſtodees. Rule, 13th Dec. 1760.

It was ordered by the court, that for the future, upon all applications made by counſel on affidavit for ſetting lands either in the defendant's own poſſeſſion, or lands out of leaſe, the order taken or conceived ſhall not be, in the firſt inſtance, (as has been heretofore practiſed) a peremptory order, but ſhall be a conditional order; and ſerved upon the party in the like manner that other conditional orders uſually are. Rule, 25th Jan. 1772.

Ordered by the court, that for the future, no *cuſtodiam* ſhall be renewed upon a bare aſſertion or allegation that the plaintiff is dead; but that it ſhall appear to the court and the officer by a full and ſufficient affidavit, ſworn and Rule, 29th June, 1772.

filed in the proper office, that the plaintiff is dead; and either died inteſtate, or made a will; and that ſuch affidavit ſhall aſcertain the executor or executors, adminiſtrator or adminiſtrators, to ſuch plaintiff, before any *cuſtodiam* ſhall be renewed, in any caſe where ſuch plaintiff ſhall happen to die.

On the demiſe of the King all *cuſtodiams* muſt be renewed.

On the demiſe of his Majeſty, King George the IId, a doubt aroſe if the *cuſtodiams* which had been granted during his reign, and the injunctions which iſſued thereon, and were ſubſiſting at the time of his death, were to be renewed, either in the caſe of the Crown, or on outlawries proſecuted by ſubjects in the King's name in civil caſes. And the court of Exchequer were unanimouſly of opinion, that in both caſes, both the *cuſtodiams* and injunctions muſt be renewed. Mr. Prat, the Attorney general of England, upon a caſe ſtated by order of the commiſſioners of the revenue on theſe points, was alſo of the ſame opinion. The reaſons given were, that as the *cuſtodiam* is a grant during his Majeſty's pleaſure the eſtate determined by the demiſe of the late King; and that it is abſolutely neceſſary to renew the *cuſtodiams*, &c. That the injunction which recites the *cuſtodiam*, and is entirely founded on it, and is no more than an order to the ſheriff to put the cuſtodee into the actual poſſeſſion of the lands granted in *cuſtodiam*, is alſo abſolutely determined, and muſt be renewed; and that the ſame are not continued by any words in the Engliſh ſtat. 1 and 2 Ann, c. 8. For after the lands are taken in execution, the ſuit and all proceedings therein (to which only the act relates) are at an end; and ſuch execution was not vacated at common law by the King's demiſe.

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The Attorney general of England, in his opinion, ſays, that the ſeiſure of the lands is not any ways impeached or diſturbed by the determination of theſe grants, which are in truth only a manner of collecting the rents by farming the lands to a tenant, inſtead of leaving them in the ſheriff's hands.

But the ſeiſure of the lands is by no means impeached or diſturbed.

He was alſo of opinion, that theſe *cuſtodiams* would continue ſix months, unleſs ſooner renewed, by an equitable conſtruction of the ſaid ſtatute of Queen Ann; and the rather as that has always been the practice in England, in the caſe of committees of lunaticks eſtates, who hold their *cuſtodiams* by grant during the King's pleaſure.

And the *cuſtodiam* will continue ſix months by an equitable conſtruction of the ſtat. of Q. Ann.

He alſo ſaid, if there had been more doubt in this caſe, he ſhould think the practice, which has been uniform (as was certified by the proper officers of the court) ſince the death of the Queen, in renewing the *cuſtodiams*, would be deciſive.

* It were much to be wiſhed that this proceſs of outlawry (with its train of *cuſtodiams*) which in ſome caſes is an uſeful and neceſſary one, were not ſo often perverted to the purpoſes of oppreſſion and injuſtice. It was originally intended as a puniſhment only for a contumacious, refractory defendant, who paying no regard to the proceſs of the law, juſtly forfeits the protection of it. And therefore the legiſlature hath cautiouſly provided, that no writ of exigent ſhall iſſue without making out a proclamation, teſted and returnable as the exigent, directed to the ſheriff of the county where the defendant dwells, and containing the effect of the action. And the ſheriff is required to make three proclamations, viz. one in open court, another at the general quarter ſeſſions, and one other, at leaſt one month before the *quinto exactus*, at or near the door of the church, or, if there be no church, in the churchyard of that town or pariſh where the defendant dwells, upon a Sunday immediately after divine ſervice. And it is further provided, that no *quinto exactus* be returned by the coroner upon the exigent, until it appear to him by affidavit of two credible witneſſes that ſuch proclamations have been made; which affidavit is to be returned to the clerk of the outlawries to be filed; and that the clerk of the outlawries ſhall not iſſue any *capias utlagatum* upon ſuch exigent till ſuch affidavit be filed with him.

11 Jac. I. 8.

6 Ann. 6.

But

But theſe ſalutary and neceſſary proviſions are daily eluded and evaded in this kingdom; the proclamations being either not made, or made in ſo private a manner that the defendant has no manner of notice of the proceeding.

Then upon the *capias utlagatum*, which iſſues upon the return of the exigent and proclamation, an inquiſition is holden, as ſecretly and clandeſtinely as the proclamations were made. A bailiff, or ſome other creature of the ſubſheriff's or the plaintiff's, is ſworn to the eſtate or lands of the defendant, upon his belief only; and thereupon a finding and return made to the court of Common pleas, which is eſtreated into the court of Exchequer; without any notice whatſoever to mortgagees, landlords, jointreſſes, or other innocent incumbrancers; who, notwithſtanding, are, by this ſeries of ſecret tranſactions, with which they have nothing to do, driven to the neceſſity of applying to the court, upon every occaſion, for the recovery of their juſt demands; ſometimes unſucceſsfully: but at beſt at an expence which they can never recover. And all this under the fiction of the prerogative, where the rights of the Crown are in no ſort in queſtion, and where it is only interpoſed in aid of one creditor to the prejudice of others.

In ſhort, the whole proceeding is ſo exceedingly vexatious and oppreſſive, as well to the debtor himſelf as to third perſons, as to cry out loudly for the interpoſition of the legiſlature, if the redreſs of a publick miſchief ſhould be deemed a more national object than the diminution of the fees of certain officers, to whom a compenſation might be made, if it ſhould be thought neceſſary.

APPENDIX.

No. I.

APPENDIX.

No. I.

The OATHS of the OFFICERS of the COURT of EXCHEQUER and ſome others, taken from the red Book of the EXCHEQUER.

OATH of the LORD HIGH TREASURER.

YOU ſhall ſwear that you ſhall truly and faithfully ſerve our Sovereign Lord the King's Majeſty, in the office of Lord High Treaſurer of this realm of Ireland; and lawfully and rightly ſhall you do to all people, as well unto poor as unto rich, that have to do afore you, by virtue of the ſaid office; and that neither for highneſs of riches, nor for hate, ne for eſtate of any perſon, nor for benefit, gift, ne promiſe, of any perſon that may be made unto you, ne by art, nor engine, the right of the King, nor of none other, you ſhall not lett nor reſpite, contrary to the laws of this realm. The King's debts you ſhall not put in reſpite, where they may be levied, but with the advice of this court. And the King's buſineſs you ſhall ſpeed and further afore all others. You ſhall nothing take of any perſon to do wrong, or to delay the right, or for delivery of the people, that ſhall have to do before you; and there, where you may underſtand wrong or prejudice to be done to the King, you ſhall put all your power and diligence to redreſs it. And if you may not do it, you ſhall

No. I.

ſhall tell it to the King's deputy of this realm, for the time being. And the King's council, in all things appertaining to the ſaid office you ſhall ſurely keep. So help you God, in Jeſus Chriſt. Amen.

Oath of the Chancellor of the Exchequer.

YOU ſhall ſwear that you ſhall truly and faithfully ſerve our Sovereign Lord the King's Majeſty, in the office of Chancellor of this his Highneſs's court of Exchequer; and rightly ſhall you do unto all perſons, as well unto the poor as to the rich; and that neither for highneſs of riches, nor for hate, ne for eſtate of any perſon, ne for gift, benefit, nor promiſe that ſhall be made unto you, you ſhall not let nor delay the right of any man that ſhall have to do before you, by virtue of your ſaid office. The King's ſeal of this court incident to your ſaid office you ſhall carefully and ſafely keep; and no proceſſes, writs or other things, ſhall you therewith ſeal, but ſuch as ſhall be warranted by order, judgment or direction of the court, Lord Treaſurer, or chief Baron, or in his abſence of ſome other baron of this court, except original proceſſes. The King's cauſes you ſhall ſpeed before any other. And, where you ſhall underſtand wrong or prejudice to be done to the King, you ſhall put to your power and diligence to redreſs. And, where you may not, you ſhall tell it to the Lord Treaſurer, or to the King's Majeſty's deputy of this realm, for the time being. The King's council in all things appertaining to your ſaid office you ſhall truly keep. And rightly and duly you ſhall do, in all things that belongeth to you to do by virtue of your ſaid office. So help you God in Jeſus Chriſt.

Oath

No I.

Oath of the Barons.

YE ſhall ſwear, that well and truly you ſhall ſerve the King our Sovereign Lord in the office of Baron of this Exchequer; and lawfully ye ſhall charge and diſcharge the people that have to account before you. And right ye ſhall do to all people, as well to the poor as to the rich. And that for highneſs of riches, neither for hate, ne for the eſtate of any perſon, for benefit, gift, ne promiſe of any perſon that may be made to you, or ſhall be made to you, ne by art nor engine, the right of the King, nor of none other ye ſhall not diſturbe, ne reſpite, contrary to the laws of the land. And the King's debts you ſhall not put in reſpite there where they may be goodly levied. And the King's buſineſs you ſhall ſpeed afore all other. And that for gift, wages, nor benefit ye ſhall not conceal the King's profit and advantage, in advantage of others, nor of yourſelf. And ye ſhall nothing take of any perſon, for to do wrong or delay the right, or for delivery or delay of the people, that have to do afore you; but in all that you may you ſhall deliver them. And there where you may underſtand wrong or prejudice to be done to the King, ye ſhall put all your power and diligence to redreſs it. And if you may not you ſhall tell it to the King's Majeſty's deputy of this realm of Ireland for the time being. And the King's counſel ye ſhall keep in all things. So God ye help and all Saints, and the Holy Evangeliſts.

APPENDIX.

No. I.

Oath of the Chief or King's Remembrancer.

YE ſhall ſwear that ye ſhall well and truly behave yourſelf in the office of the King's Majeſty's Remembrancer of this his Exchequer in Ireland, during the time ye ſhall occupy the ſame. Ye ſhall ſet forth, from time to time, all ordinary proceſſes upon all ſuch records as ſhall remain in your office for the King's profit. And the ſame records ye ſhall ſafely keep to your power, during all ſuch time as ye ſhall be remembrancer in this ſaid court of Exchequer. And all other things that appertaineth to your ſaid office you ſhall do, or cauſe to be done, from time to time, according to your proper knowledge and diſcretion. And further I A. B. *&c.*

Oath of the Treasurer's or ſecond Remembrancer of the Court of Exchequer.

YOU ſhall ſwear that you ſhall well and truly behave yourſelf in the office of the Treaſurer's Remembrancer and ſecond remembrancer of this his Majeſty's Exchequer, during the time that you ſhall occupy the ſaid office and place. You ſhall duly and truly ſet forth, from time to time, and at all times, all accuſtomed proceſſes, ordinary or extraordinary, upon all ſuch records as ſhall remain in your ſaid office, for the King's profit and advantage. And the ſame records you ſhall ſafely and carefully and faithfully keep, to your power, during all ſuch time as you ſhall remain in the ſaid office. You ſhall rightly and duly charge every accomptant, and all other perſons that have to do with you, for any debt or duty due to the King's

King's Majeſty, to his Highneſs's beſt benefit or profit. And no diſcharge ſhall you make unto any man, but according to the due and ordinary courſe of this court, or by order or direction of the barons, or ſome of them. And that neither for riches, nor for hate, or favor, ne for eſtate of any perſon, nor for benefit, gift, nor promiſe of any perſon, that ſhall be made you, ne by art nor engine, the King's right you ſhall not conceal nor diminiſh. And nothing ſhall you take of any perſon, whereby any wrong or prejudice may be done to the King. And all things that appertain to you to do, by virtue of your ſaid office, you ſhall rightly and truly do or cauſe to be done, from time to time, to the utmoſt of your power, knowledge, ſkill and diſcretion. So help you God in Jeſus Chriſt. No. I.

Oath of the Auditor of the Exchequer.

YE ſhall ſwear that you ſhall truly ſerve the King our Sovereign Lord in the office of Auditor of this Exchequer during the time ye ſhall have the ſame. And well and truly ye ſhall entreate, and with all goodly ſpeed ye ſhall rid ſuch perſons as ſhall be by this court aſſigned to accompt afore you. Ye ſhall not take of any perſon whereby the King's Majeſty may loſe; nor conſent to any untruth. And right ye ſhall do to any accomptant that ſhall have to do before you, according to your wit and diſcretion. And ye ſhall ſafely and ſurely keep ſuch records, writs and other miniments of this court as ſhall be committed for any time to your cuſtody, for any accompt by you to be made, without raſing or embezzling of the ſame. And further I A. B. *&c.*

No. I.

OATH of the SURVEYOR and EXTENSOR GENERAL of lands.

YOU ſhall ſwear ye ſhall well and truly ſerve our Sovereign Lord the King in the office of Surveyor and Extenſor general of all his Majeſty's lands, tenements and hereditaments, in this his Highneſs's realm of Ireland, during the time you ſhall exerciſe the ſame. And well and truly ye ſhall intreat, and with all goodly ſpeed ye ſhall rid, ſuch perſons as ſhall have to do before you in your ſaid office. Ye ſhall not take of any perſon, whereby the King's Majeſty may loſe, nor conſent to any untruth; and right you ſhall do to all his Majeſty's ſubjects that ſhall be to do before you in the execution of your ſaid office, according to your wit, judgment and diſcretion. And ye ſhall ſafely and ſurely keep ſuch records, writs and other miniments of this court, as ſhall be committed to your charge, without raſing or embezzling of the ſame. And in all things that belongs to you to do in your ſaid office you ſhall well, truly and faithfully behave yourſelf.

So help you God in Jeſus Chriſt. Amen.

OATH of the SUMMONISTER and CLERK of the ESTREATS.

YOU ſhall ſwear that you will well and truly and faithfully ſerve our Sovereign Lord the King in the office of Summoniſter of his Highneſs's court of Exchequer, and that you ſhall, duly and truly, in every term and times accuſtomed, write forth all ſuch ſummons or other proceſs, as belong unto your ſaid office, and have been accuſtomed to iſſue, for levying and getting his revenue of the

No. I.

the fines and caſualties drawn down unto you. And that neither for favour, nor for hate, nor for reward, you ſhall forbear to write and iſſue forth the ſaid ſummons or other proceſs againſt any perſon or perſons, on whom any of the ſaid fines and caſualties are charged. And that no manner of reſpit or diſcharge ſhall you make or give to any man, whether he be accomptant or debtor, concerning the ſame, but by the due and orderly courſe of this court, or by order or directions of the Barons. You ſhall not delay any man, accomptant or other, in the diſpatch of the buſineſs he hath to do with you. And juſtly and rightly ſhall you do, in every thing that belongeth to you to do, for his Majeſty's profit and ſervice. So help you God in Jeſus Chriſt.

Oath of the Auditor of Foreign Accounts.

YOU ſhall ſwear that you ſhall well and truly ſerve our Sovereign Lord the King in the office of Auditor and aſſiſtant to the commiſſioners for examining, taking and making up all foreign or material accounts or profits, within this kingdom, (except the treaſurer's accounts for the wars) during the time you ſhall have to do with the ſame. And well and truly you ſhall entreat, and with all goodly ſpeed you ſhall rid, ſuch perſons as ſhall come to account before you. You ſhall not take of any perſon, whereby the King's Majeſty may loſe, nor conſent to any untruth. And right you ſhall do to every accountant that ſhall have to do before you, according to your wit and diſcretion. So help you God.

Oath

No. I.

Oath of the Transcriptor and Foreign Apposer.

YOU ſhall well and truly and faithfully ſerve our Sovereign Lord the King in the office of Tranſcriptor and Foreign Appoſer of this court, now granted unto you. And you ſhall rightly and duly appoſe every ſheriff that ſhall have to do with you, upon his proceſs or ſummons of the green wax, for the benefit of the King's Majeſty, according to your beſt ſkill and knowledge. Allowance or allowances you ſhall make none to any accountant in that behalf, without eſpecial order of this court. Neither ſhall you delay any accountant in his appoſal; but ſhall with all diligence further them, whereby their accounts may come to be declared. And rightly and truly you ſhall do unto all men in that that belongeth unto you to do by virtue of your ſaid office. So help you God, &c.

Oath of the Engrosser of the Great Roll and Clerk of the Pipe.

YOU ſhall ſwear that you ſhall well and truly behave yourſelf in the office of Chief Engroſſer of the Great Roll of his Majeſty's revenues of this kingdom of Ireland, and Clerk of the Pipe of this his Highneſs's court of Exchequer, during the time that you ſhall occupy the ſaid office and place. You ſhall duly and truly ſet forth and convey down to the writing office, from time to time, and at all times accuſtomed, all rents and arrears which are or ſhall hereafter grow due unto his Majeſty, upon all ſuch records as ſhall remain in your ſaid office, for the ſpeedy calling in of

of the King's Majeſty's revenue, both certain and caſual, for the King's profit and advantage. And the ſame records you ſhall ſafely and carefully and faithfully keep, to your power, during all ſuch time as you ſhall remain in the ſaid office. You ſhall rightly and duly charge every accompt-ant and all other perſons that have to do with you, for any debt or duty due to the King's Majeſty, to his Highneſs's beſt benefit and profit. And no diſcharge ſhall you make to any man, but according to the due and ordinary courſe of this court. And that neither for riches, nor for hate or favor, ne for eſtate of any perſon, nor for benefit, gift, nor promiſe of any perſon, that ſhall be made you, ne by art nor engine, the King's right you ſhall not conceal nor di-miniſh. And nothing ſhall you take of any perſon, whereby any wrong or prejudice may be done to the King. And all things that appertain to you to do by virtue of ſaid office you ſhall rightly and truly do or cauſe to be done, from time to time, to the utmoſt of your power, know-ledge and ſkill. So help you God in Jeſus Chriſt.

OATH of the CHIEF and SECOND REMEMBRANCERS.

YOU ſhall ſwear that as well the preſent term, as every term from henceforth, you ſhall make a ſchedule of all ſuch perſons as ſhall be diſcharged in your office by judg-ment, or in other manner, in the ſame term, of any de-mands, in this court of Exchequer, and in ſuch ſchedule ſhall expreſs the manner of the ſame diſcharges, and ſhall deliver the ſame ſchedule to the Clerk of the pipe, the very ſame term, or before the Exchequer cloſe, to the intent that he may enter all ſuch diſcharges in the great roll; and ſhall require the like ſchedules from the Clerk of the pipe of

No. I. of all diſcharges in his office every term; and ſhall make like diſcharges thereof in your office. So help you God in Jeſus Chriſt.

Oath of the Clerks of the Pipe.

YOU ſhall ſwear that you ſhall in this term, and in every term from hence following, require of the Chief and Second remembrancers, viz. of each of them, a ſeveral ſchedule, containing the names of all ſuch perſons as ſhall be diſcharged in their ſeveral offices by judgment, or in other manner, in the ſame term, or before the Exchequer cloſe, of any demands in this court, and of the manner of the ſame diſcharge; and, having ſo perceived the ſaid ſchedules, you ſhall enter a diſcharge of the ſaid parties, in the great roll. And you ſhall further ſwear that you ſhall likewiſe make two ſeveral ſchedules in writing every term of all ſuch perſons as ſhall be diſcharged of any demand in your office, and of the manner of the ſaid diſcharge, and ſhall deliver the one of the ſaid ſchedules unto the Chief remembrancer, and the other unto the Second remembrancer; to the intent that ſuch perſons as are diſcharged in your office may likewiſe be diſcharged in theirs. So help you God in Jeſus Chriſt.

Memorandum, Theſe two laſt-mentioned oaths were drawn by the direction of the court of Exchequer, terms St. Hillar. 1626 annoq; ſecundo Regis Caroli. And the ſaid officers were ſworn thereunto accordingly; and the ſucceeding officers hereafter in the ſaid places are ordered to take the ſame before their admittance.

Oath

No. I.

Oath of Comptroller of the Pipe and Second Engrosser of the Great Roll of the Pipe.

YOU ſhall ſwear that you ſhall well and truly behave yourſelf in the office of Comptroller of the Pipe, and Second Engroſſer of the Great Roll of the Pipe in his Majeſty's court of Exchequer, during the time you ſhall occupy the ſaid office and place. You ſhall, duly and truly, in every term and time accuſtomed, write forth the ſummons of the Pipe, and all other proceſſes as belong to your ſaid office, and have been accuſtomed to iſſue for the levying and getting in his Majeſty's revenue, both certain and caſual, drawn down to you. And that neither for favour nor for hate, nor for reward, you ſhall not forbear to write and iſſue forth the ſaid ſummons or other proceſs, againſt any perſon or perſons, on whom any debts or duties due to his Majeſty are charged; that no manner of reſpite or diſcharge you ſhall make to any man, but according to the due and ordinary courſe of the court. You ſhall not delay any man, accomptant or other, in the diſpatch of the buſineſs he hath to do for his Majeſty's profit and ſervice, to the utmoſt of your power, knowledge and ſkill. So help you God in Jeſus Chriſt.

Oath of the Writers of the Pells.

YE ſhall ſwear that ye ſhall truly and faithfully keep the King's Majeſty's book within this court, called the Peale, for the ſpeedy expedition of his accountants there, or their ſurety. And ye ſhall delay none of the King's

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accomptants, for favour, nor affection, nor dread. And ſee always that no untrue entrie be made in the ſaid Peale. And if you know of any error done within the ſaid court, ye ſhall ſhew it to the lord treaſurer or to the under treaſurer without any delay thereof to be made. And the ſecrets of this court ye ſhall not bewray. So help you God.

Oath of the Tellers.

YE ſhall well and truly receive the King's good of his people, that cometh to his receipt to make any manner of payment to his uſe, and truly charge you therewith. And ye ſhall deliver the King's people in the moſt haſtie wiſe that ye may goodly. Ye ſhall receive wittingly no money, but good and true; nor no payment make but good and true. And that ye ſhall keep counſel, from time to time, and nothing diſcover to any creature, what gold or ſilver or obligations of merchants, or other treaſure that ſhall come into the King's receipt, or his treaſury. And ye ſhall no payment make, without licence or commandment of my lord treaſurer, or of his under treaſurer. And that ye ſhall well and truly attend upon your office, and behave you in all that belongeth to your office. So help you God.

Oath of the Chief Chamberlain of the Exchequer.

YOU ſhall ſwear that you ſhall well and truly and faithfully ſerve our Sovereign Lord the King, in the office of Chief Chamberlain in his Highneſs's receipt of Exchequer in this his Highneſs's realm of Ireland. His right in all things you ſhall do. You ſhall conceal nothing that concerneth

cerneth his Highneſs's right, either in revenue or title, which by your office you may or ought to have knowledge of. You ſhall well and truly keep a true controulment of all receipts of ſums of money, that ſhall be received by his Highneſs's Treaſurer, or his deputies, within the realm of Ireland, either of his Highneſs's rents, or caſualties, or other profits or payments whatſoever, and of the iſſuing thereof. And unto all his people that ſhall have to do with you in your ſaid office, you ſhall do right in all things, to the uttermoſt of your wit, power and knowledge. So help you God, *&c.*

The OATH of the DEPUTIES of the CHAMBERLAIN.

YE ſhall firmly and truly obſerve, do and perform, all and every thing belonging unto the office of under Chamberlain, in the ſtead of I. S. Chamberlain for whom ye be deputy; and from time to time give good attendance unto the ſame; helping, *&c.* to diſpatch all manner of accountants, according to the antient cuſtom of this court; and eſpecially regard, and ſee, from time to time, unto the entries, ſafe keeping, taking out, ſhewing, delivery, and laying upon, all manner of leagues and other writings, of any outward parties, which remain within the King's our Sovereign Lord's treaſury, to whom ye ſhall be true, ſecret, and faithful, during the time of your continuance, and being in the ſame, *&c.*

No. I.

Oath of Remembrancer, Clerk and Receiver of the First Fruits and Twentieth Parts.

YOU ſhall ſwear that you ſhall well and truly behave yourſelf in the office of Remembrancer, Clerk and Receiver of the Firſt Fruits and Twentieth Parts, during the time that you ſhall occupy the ſaid office and place. You ſhall duly and truly ſet forth, from time to time, and all times, all accuſtomed proceſs, ordinary or extraordinary, upon all ſuch records as ſhall remain in your ſaid office, for the King's profit and advantage; and the ſame records you ſhall ſafely, carefully and faithfully, keep, to your power, during all ſuch time as you ſhall remain in the ſaid office; and that neither for riches, ne for hate or favour, ne for eſtate of any perſon, or for benefit, gift or promiſe of any perſon, that ſhall be made, ne by art or engine, the King's right you ſhall not conceal or diminiſh; and nothing ſhall you take of any perſon, whereby any wrong or prejudice ſhall be done to the King. And all other things that appertain to you to do, by virtue of your office, you ſhall rightly and truly cauſe to be done, to your utmoſt power. So help you God in Jeſus Chriſt.

Oath of the Clerk of the Common Pleas of the Exchequer.

YE ſhall ſwear that you ſhall truly occupy and execute the office of Clerk of the Common Pleas of this court. You ſhall do no falſhood nor deceipt within this place, nor in the execution of your ſaid office, any delay, nor conſent to any; and if you know of any done by any other

other perſon within this place, or in any thing belonging to your ſaid office, you ſhall give notice thereof to the King's judges or barons of this court, or to ſome of them. You ſhall encreaſe no fees, nor delay no perſon, for lucre or malice, in your ſaid office. You ſhall not raſe or deface, nor conſent to the raſing or defacing of, any record in your ſaid office, or in any other office or place of this court, whereby the right of the King or any his ſubjects may be hindered or damnified. And furthermore you ſhall truly uſe and demeane yourſelf in the ſame office according to your power, wit, ſkill, and diſcretion. So help you God and the holy contents of this book.

Oath of the Attornies or Secondaries in the Office of the Treasurer's or Second Remembrancer.

YOU ſhall ſwear that you ſhall well and truly and faithfully behave yourſelf in the office of an Attorney in the ſecond Remembrancer's office of this his Majeſty's court of Exchequer. You ſhall do no falſhood or raſure, nor conſent to the doing of any, nor to the raſing of any record, pleadings, writings or memorandums of this court, whereby the right of the King or any his ſubjects may be hindered or prejudiced. And, if you know of any to be done, you ſhall give ſpeedy knowledge to the lord chief baron, or other the barons of this court, that thereby the ſame may be redreſſed and reformed. And you ſhall alſo ſwear that you ſhall faithfully keep a juſt and true controul upon the maſter of the ſaid office of ſecond Remembrancer, of all ſuch monies as ſhall be paid in or diſcharged, of the revenue of the homage due unto his Majeſty, his heirs and ſucceſſors, in ſuch counties as you ſhall have employment in the ſaid office, ſo as his Highneſs

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Highneſs may be truly anſwered. You ſhall delay no man neither for lucre, ne for malice; and rightly and truly you ſhall do unto all men in that that belongeth unto you to do, by reaſon of your ſaid place and office of an Attorney in the ſaid office of ſecond Remembrancer of this court. So help you God in Jeſus Chriſt.

Oath of the Usher and Marshal of the Exchequer.

YOU ſhall ſwear that you ſhall well and truly and faithfully ſerve our Sovereign Lord the King's Majeſty in the office of Uſher and Marſhal of this his Highneſs's court of Exchequer. You ſhall well and truly keep all ſuch priſoners, as ſhall be to your cuſtody committed for any debt due to his Majeſty, or for any other cauſe, until ſuch priſoner or priſoners (by the warrant, order or direction of this court) ſhall from your cuſtody be diſcharged. You ſhall give your diligent and due attendance in this court, and upon the judges thereof, as hath been accuſtomed. The King's writs and proceſſes for his Highneſs's debts you ſhall receive from the officers of this court, and the ſame you ſhall duly deliver over to the purſuivant, to be conveyed for his Majeſty's ſervice, after the accuſtomed manner. And all other things that belong and appertain to you to do by virtue of your ſaid office, you ſhall well and truly obſerve and do, according to your beſt ſkill and underſtanding. So help you God in Jeſus Chriſt.

Oath

No. I.

OATH of the USHER in the RECEIPT of the EXCHEQUER.

YE ſhall ſwear that ye ſhall well and truly ſerve the lord treaſurer and chamberlains, their officers, in your room of uſherſhip to the lord treaſurer of England, within this court of the King's receipts; and ſhall diligently lock and keep the doors of the King's treaſury in due time for ſafety of his goods; and the ſaid doors ye ſhall be ready to open again, all times when the ſaid treaſurer and chamberlains, or other their clerks and deputies, ſhall have occaſion to enter; and there ſhall give your attendance till their departures. And ye ſhall demand no unjuſt allowance for any neceſſaries, or other kind of thing, by you bought for ſervice of the King within the court. And you ſhall to your power help and further the King's accomptants paſſing through this court. So help you God in Jeſus Chriſt and by the contents of that book.

OATH of the PURSUIVANT of the COURT of EXCHEQUER.

YOU ſhall ſwear that you ſhall well and truly ſerve our Sovereign Lord the King's Majeſty, in the office of Purſuivant or Meſſenger of this his Highneſs's court of Exchequer. You ſhall give your due attendance in this court; and be always ready to perform and execute whatſoever by the ſaid court ſhall be commanded you. His Majeſty's writs and proceſſes of this court you ſhall truly and duly and faithfully and entirely without delays deliver, according to their direction at all times, and from time to time. And all things alſo you ſhall do and perform which to your place appertaineth. So help you God in Jeſus Chriſt.

OATH

No. I.

Oath of the Messengers.

You ſhall well and truly waite and attend upon my lord treaſurer and chamberlains of the King's Exchequer, in your office of one of the four Meſſengers of this court. And all ſuch meſſages, and inſtructions, and other commandments to you committed, by my ſaid lords, or any officer under them, for the King's honour and profit, you ſhall well and truly do. The ſecrets of the King and of the court you ſhall keep. And in all other things, concerning the office of a meſſenger of this place, you ſhall well and truly do in your behalf. So help you God.

Oath of Attornies.

YOU ſhall well and truly and faithfully behave yourſelf in the office of Attorney of this his Majeſty's court of Exchequer. You ſhall do no falſhood or raſure, nor conſent to the doing of any; nor to the raſing of any records, pleadings, writings, or memorandums of this court; whereby the right of the King or any his ſubjects may be hindered or prejudiced; and, if you ſhall know of any to be done, you ſhall give ſpeedy knowledge thereof to the lord chief baron or other the barons of this court, that thereby the ſame may be redreſſed and reformed. You ſhall delay no man neither for lucre, ne for malice. And rightly and truly you ſhall do unto all men, in that that belongeth to you to do by reaſon of your place and office of attorney. So God you help and the holy contents of that book.

Oath

No. I.

Oath of Escheators.

YE ſhall ſwear that ye ſhall ſerve the King well and truly, in the office of Eſcheator in the county of M. and do the King's profit in all that longeth to you to do by way of your office, after your wit and power. And his right and all that longeth to his Crown ye ſhall truly keep. Ye ſhall not aſſent to decreaſe ne to conceal the King's rights nor his franchiſes; and whenſoever that ye have knowledge of the King's rights or of his Crown, be that in land, rent, franchiſes or ſuits, that be concealed or withdrawn, ye ſhall do your true pain and diligence to withſtand that; and if ye may not do that, ye ſhall tell that to the King's Majeſty's deputy of this his realm of Ireland for the time being. Ye ſhall truly and righteouſly treat the people of your bailiwick, and right do to every man, as well to poor as to rich, in that that longeth to you to do, by way of your office. Ye ſhall do no wrong to any man, neither for gift, promiſe, ne hate; ne no man's right ye ſhall diſturb. Ye ſhall take nothing whereby that right may be diſturbed, letted, or delayed. Ye ſhall truly and righteouſly return, and ſerve all the King's writs. Ye ſhall in your proper perſon make the extent of lands, after the very value and inqueſt, to return them as oft as they ſhall be taken before you, and that within a month after they be taken. Ye ſhall take no bail into your ſuit, but ſuch as ye will anſwer for. And ye ſhall do your bailiffs do ſuch oath as longeth to them. Ye ſhall truly and righteouſly yield accompt to the King's Exchequer here of all the iſſues of your ſaid bailiwick. Ye ſhall take your inqueſts in open places, and that by indenture, after the effect of the ſtatute thereof made. So help you God, *&c.*

No. I.

Oath of the Attorney and Solicitor General.

YOU ſhall well and truly and faithfully ſerve our Sovereign Lord the King, in the office of his Highneſs's Attorney [or Solicitor] General in this realm of Ireland. The King's buſineſs you ſhall ſpeed before all others. And that neither for highneſs of riches, neither for hate, ne for eſtate of any perſon, ne for benefit, ne for gift nor promiſe of any perſon, that may be made to you, ne by art or engine, the right of the King you ſhall not diſturb ne reſpit, in any thing that appertains to your office, contrary to the laws of the land. You ſhall not conceal the King's profits and advantage in advantage of any other, nor of yourſelf. You ſhall nothing take of any perſon, to wrong or delay the right of the King. You ſhall not aſſent to the taking away or concealment of the rights, franchiſes nor privileges of the King, or of his Crown. And wherein ſoever you ſhall know the rights of the King or of his Crown, be it in lands, or in rents, or in ſuits, to be concealed or ſubſtracted, you ſhall put all your endeavour to withſtand the ſame; and if of yourſelf you cannot do it, you ſhall reveal the ſame to the judges of this court, or unto the King's deputy or lieutenant of this kingdom. The King's counſel you ſhall keep, in all things; and rightly and truly you ſhall adviſe the King in all that you ought to do in your ſaid office, according to your beſt ſkill and knowledge. So help you God, *&c.*

Oath

No. I.

Oath of Sheriffs to account.

You ſhall ſwear to give his Majeſty a juſt and true account of your office of Sheriffwick, for one whole year ending, *&c.* and in this account you ſhall pay into his Majeſty's receipt all ſuch ſum and ſums as you, or either your bailiffs, officers, or miniſters, have, or lawfully might have provided for his Majeſty's uſe. You ſhall make true anſwer to the ſummons of the pipe, and all green wax iſſued out of the court, to his Majeſty's uſe. You ſhall be anſwerable to his Majeſty, upon this oath, for the felons goods due to his Majeſty by his prerogative royal, and not granted to you by charter. You ſhall rule no petition, nor have allowance in diſcharge of the account, unleſs you have juſt cauſe. But in all things you ſhall behave yourſelf as his Majeſty's true accountant. So help you God in Jeſus Chriſt.

Oath of the Surveyor General of the Customs, Subsidies, and Impositions.

YOU ſhall well and truly and faithfully ſerve our Sovereign Lord the King in the office of Surveyor General of his Highneſs's cuſtoms, ſubſidies, poundages and impoſitions, for all goods, wares and merchandizes, coming into, and going out of, all and ſingular the ports and havens within this realm of Ireland, and into and out of all ſingular the places, creeks and members, to them and every them belonging or appertaining. You ſhall due and true entries make of ſuch wares, goods and merchandizes, that ſhall be brought into and carried out of the port wherein

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you ſhall be reſident; and to the uttermoſt of your power ſhall duly and truly overſee, and take care, that all and every the officers of his Majeſty's cuſtoms, placed by his Majeſty, as alſo all ſuch other perſon and perſons that ſhall be placed or have to do in the ſaid office, by or under you, in any of the other ports, creeks, places, and their members, within this realm, may duly and truly perform and execute their duties in their ſeveral places, for the beſt advantage and increaſe of his Majeſty's profit, in the ſaid cuſtoms, ſubſidies, poundage and impoſitions, ſo long as you ſhall be employed in the ſaid office of Surveyor General; and that they and every of them ſhall duly and truly deliver unto this court their ſeveral books of all their accounts, as well of all the ſaid cuſtoms, ſubſidies, poundage, impoſitions, as alſo of all goods, wares and merchandizes, paſſing from port to port in the ſaid realm, every half year, viz. every Michaelmas and Eaſter terms, without fraud, concealment or deceit. And all and every thing and things that belong to you to do by virtue of your ſaid place and office of Surveyor General, you ſhall well and truly and faithfully do and perform, to the utmoſt of your power, ſkill, and knowledge. So help you God in Jeſus Chriſt.

Oath of the Customer and Collector.

YOU ſhall well and truly and faithfully ſerve our Sovereign Lord the King's Majeſty, in the office of Cuſtomer and Collector of his Highneſs's cuſtoms, ſubſidies, and impoſitions of the port of Dublin, and of all and ſingular the creeks, places, and members to the ſaid port belonging. You ſhall due and true entries make of all goods, wares, and merchandizes, that ſhall be brought into or carried out

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out of the ſaid port, creeks, places, and members, and every of them, from and toward the ports and places beyond the ſeas, by way of merchandize; and likewiſe of all goods, wares, and merchandizes, that ſhall be brought into, and carried out of the ſaid port, creeks, places, and members, paſſing from port to port. And in entring the ſaid entries, you ſhall duly and truly obſerve and note the ſeveral days and years of entring ſuch entry; and the names and burthen of every ſhip, bark, or veſſel, with the maſter's name of the ſaid ſhip, bark, or veſſel, ſo entered; and alſo enter the merchant's name loading in the ſame. And alſo you ſhall true entry make of every parcel of goods, wares, and merchandizes, ſo coming into or carried out of and entred in the ſaid port, creeks, places, or members, with the true values and cuſtoms and impoſitions thereof, according to ſuch rates as now are or that hereafter ſhall be given and laid down unto you, from time to time, to be obſerved; whereby the King's Majeſty may be duly anſwered of the ſame, upon your account or accounts thereof to be yielded to his Majeſty. And in any the ſaid entries you ſhall not conceal any thing, whereby the King's Majeſty may be prejudiced or hindered. You ſhall obſerve and keep your due hours, and times uſual, appointed to be obſerved, and needful to be kept, for ſitting in the cuſtom-houſe, for the ſpeedy and orderly diſpatch of all merchants, and others, that ſhall have to do in the ſame. You ſhall duly and truly perform, obſerve, keep, and fulfil all ſuch orders, directions, and inſtructions, as now are, or hereafter ſhall be eſtabliſhed, laid down, and given in charge to be obſerved, performed, or fulfilled, for the better anſwering of his Highneſs's cuſtoms, ſubſidies, and impoſitions, and other duties, which on your part are to be obſerved, performed, and fulfilled. And rightly and truly you

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you ſhall do in your ſaid office in all that belongeth to you to do for the King's profit according to your beſt wit, ſkill, and knowledge. So help you God, *&c.*

Oath of a Searcher.

YOU ſhall ſwear that you ſhall well and truly and faithfully ſerve our Sovereign Lord the King in the office of ſearcher of the port of the city of Youghall; and all and ſingular the ports, creeks, places, and members to the ſame belonging. You ſhall duly ſearch and viſit all ſhips, barks, and veſſels, coming into and going out of the ſaid ports, creeks, and members of the ſame, for all prohibited goods, wares, and merchandizes; and none of them ſhall you willingly ſuffer or paſs out of this realm, contrary to the laws and ſtatutes in that behalf made and provided. You ſhall alſo viſit and ſearch all ſhips, barks, and veſſels, running into the ſaid ports, creeks, and places. And if you find any *pamphlet and ſeditious books or letters*, you ſhall ſeiſe and make a ſtay of any ſuch, and therewith ſpeedily acquaint the Lord Lieutenant, Lord Deputy, Lords Juſtices, or other Chief Governor or Governors of this kingdom, for the time being, with ſuch ſeiſure; and ſhall not part with the ſame books, until their Lordſhips pleaſure ſhall be ſignified touching the ſame; and the ſame you are to obſerve accordingly. You ſhall make due ſeiſure of ſuch goods, wares, and merchandizes, as ſhall be carried out of, or brought into the ſaid ports and members of the ſame, contrary to the laws and ſtatutes of this land, which ſhall come to your knowledge; and of ſuch ſeiſures ſo made you ſhall make due return unto his Majeſty's court of Exchequer, in due time, as the ſame requires.

requires. You ſhall duly perform, obſerve, keep, and fulfil all ſuch orders, directions, and inſtructions, that now are, or hereafter ſhall be eſtabliſhed, laid down, and given in charge to the cuſtom-houſe of the port aforeſaid, to be obſerved, performed, and fulfilled, for the better anſwering of his Majeſty's cuſtoms, ſubſidies, and impoſitions, and other duties which on your part are to be obſerved, performed, and fulfilled. And rightly and truly you ſhall do in your ſaid office in all things that belongeth to you to do for the King's profit, according to your wit and knowledge. So help you God in Jeſus Chriſt.

Oath of the Mayor of the City of Dublin.

YE ſhall ſwear that ye ſhall truly and faithfully ſerve our Sovereign Lord the King in the office of Mayor of the city of Dublin; and that the ſame city ye ſhall ſafely and ſurely keep to the uſe of our ſaid Sovereign Lord the King of England, Scotland, France, and Ireland, and of his heirs, and lawful ſucceſſors, Kings and Queens of England and Ireland. And the profit of our ſaid Sovereign Lord the King ye ſhall do in all things that belongeth unto you to do. And the right of the King in whatſoever appertaineth to the Crown, within the ſaid city, ye ſhall truly and faithfully keep and preſerve. And that ye ſhall not aſſent to the taking away or concealment of the rights, nor the franchiſes nor privileges of the King's Majeſty. And that whereinſoever you ſhall know the rights of the King, or of his Crown, be it in lands or rents, or in franchiſes, or in ſuit, to be concealed or ſubtracted, you ſhall put all your endeavour to withſtand the ſame. And, if of yourſelf you cannot do it, you ſhall declare or reveal the ſame unto

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unto the King's deputy or lieutenant of this kingdom, or to ſuch of his Highneſs's council you know will reveal the ſame to the King's ſaid deputy or lieutenant. And that lawfully and rightly you ſhall entreat the people of your ſaid bailiwick And that you ſhall do equal right to all men, as well unto ſtrangers as unto the citizens, and as well unto the poor as to the rich, in all that appertains to you to do. And that neither for greatneſs, nor for riches, nor for gift, ne for promiſe, nor for favour, ne for hate, ye ſhall not do wrong to any man. And that you ſhall not hinder any man of his right, nor nothing ſhall you take whereby the King may loſe or his right, or be diſturbed. And, in all things that appertaineth to the office of Mayor of the ſaid city to do, you ſhall well and truly and faithfully behave yourſelf. So help you God.

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The COMMISSIONERS of the REVENUE's PATENT.

GEORGE the Third, by the grace of God, of Great-Britain, France and Ireland, King, defender of the faith, and ſo forth. To our truſty, and well beloved John Bourke, John Beresford, John Monk Maſon, John Staples, Richard Townſend, James Agar and Hercules Langriſhe, Eſqrs. greeting. WHEREAS, by letters patent, under the great ſeal of our ſaid kingdom of Ireland, bearing date the 25th day of December, in the fourteenth year of our reign, our truſty and well beloved the ſaid I. B, I. B, I. M. M. I. S, and R. T, Eſquires, were conſtituted and appointed to be commiſſioners of our revenue of exciſe, within our ſaid kingdom of Ireland. AND WHEREAS, by our ſaid letters patent, the ſaid I. B, I. B, I. M. M, I. S, R. T, Eſquires, together with Sir F. B, bart. and I. A, Eſq; were conſtituted and appointed to be commiſſioners of our cuſtoms and our chief commiſſioners and governors, in and throughout our ſaid kingdom of Ireland, as by our ſaid letters patent, relation being thereunto had, may and will more at large appear. And WHEREAS, We have thought fit to determine and make void the ſaid letters patents, whereby the ſaid I. B, I. B, I. M. M, I. S, and R. T, Eſqrs. were conſtituted and appointed to be our commiſſioners of our revenue of exciſe, within our ſaid kingdom of Ireland, and alſo whereby the ſaid I. B, I. B, I. M. M, I. S, R. T, Eſqrs. Sir F. B, bart. and I. A, Eſq; were conſtituted and appointed to be our commiſſioners of

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our cuſtoms, and our chief commiſſioners and governors, in and throughout our ſaid kingdom of Ireland. NOW KNOW YE therefore, that We, by and with the advice and conſent of our right truſty and right well beloved couſin and counſellor Simon Earl Harcourt, our Lieutenant General and General Governor of our ſaid kingdom of Ireland, and according to the tenor and effect of our letters, under our privy ſignet and ſign manual, bearing date at our court at St. James's, the 24th day of November, 1774, in the fifteenth year of our reign, and now enrolled in the rolls of our high court of Chancery in our ſaid kingdom of Ireland, HAVE REVOKED, determined and made void, and by theſe preſents We do revoke, determine and make void the ſaid letters patent, bearing date the 25th day of December, in the fourteenth year of our reign, whereby the ſaid I. B, I. B, I. M. M, I. S, and R. T, Eſqrs. were appointed commiſſioners of our revenue of exciſe, in our ſaid kingdom of Ireland, and whereby the ſaid I. B, I. B, I. M. M, I. S, R. T, Sir F. B, bart. and I. A, Eſq. were conſtituted our commiſſioners of our cuſtoms, and alſo our chief commiſſioners and governors, in and throughout our ſaid kingdom of Ireland. KNOW YE FURTHER, that We repoſing ſpecial truſt and confidence in the abilities, integrity, and fidelity of our truſty and well beloved John Bourke, John Beresford, John Monk Maſon, John Staples and Richard Townſend, Eſqrs. of our ſpecial grace, certain knowledge, and mere motion, by and with the advice and conſent aforeſaid, and according to the tenor and effect of our aforeſaid letters, HAVE nominated, conſtituted and appointed, and by theſe preſents DO nominate, conſtitute, and appoint you the ſaid I. B, I. B, I. M. M, I. S, and R. T, Eſqrs. to be commiſſioners of our revenue of exciſe, within our ſaid kingdom of Ireland; and alſo commiſ-

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ſioners of and for the office of exciſe or new impoſt ſettled within our city of Dublin, in our ſaid kingdom of Ireland, and alſo commiſſioners of and for ſuch other our revenues, profits, and incomes whatſoever ariſing, or which are or ſhall be anſwerable or due, owing, or in arrear, or payable to Us, in our ſaid kingdom of Ireland, by virtue of all and every the ſeveral acts of parliament hereafter mentioned, or any other ways and means whatſoever during our pleaſure (that is to ſay) one act, entitled, "An act for "the improvement of his Majeſty's revenue, upon the "granting of licences for the ſelling of ale and beer;" and one other act, entitled, "An act for the better ordering "the ſelling of wines and aqua vitæ, together with all "ſorts of ſtrong waters;" and alſo one other act, entitled, "An act for eſtabliſhing an additional revenue unto his "Majeſty, his heirs and ſucceſſors, for the better ſupport "of his and their Crown and dignity;" and alſo one other act, entitled, "An additional act for the better ordering "and collecting the revenue ariſing by hearth-money;" and alſo of and for all and every the quit rents, and other rents and payments, ariſing, or which are or ſhall be due, anſwerable or payable to Us, by virtue of one other act, entitled, "An act for the better execution of his Majeſty's "gracious declaration, for the ſettlement of his kingdom "of Ireland, and ſatisfaction of the ſeveral intereſts of "adventurers, ſoldiers, and others his ſubjects there;" and alſo one other act, entitled, "an act for the explaining "ſome doubts, ariſing upon an act, entitled, an act for "the better execution of his Majeſty's gracious declaration, "for the ſettlement of his kingdom of Ireland, and ſatis-"faction of the ſeveral intereſts of adventurers, ſoldiers, "and others his ſubjects there, and for making ſome "alterations and additions unto the ſaid act, for the more "ſpeedy and effectual ſettlement of the ſaid kingdom,"

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and alſo of and for all and all manner of chief rents, ſervices, rents of inheritance, rents of aſſize, rents charge and rents ſeck, and dry, fee farm rents, reſerved rents upon leaſes made or to be made, cuſtodiam rents or compoſition money, Exchequer rents, nomine decime and viceſim, aſſart rents, rents due from purpreſtures arrented, copyhold rents, and all other certain antient rents, and other Crown rents, or other rents payable to Us, our heirs or ſucceſſors, within our ſaid realm of Ireland, which now are or ought to be in charge, or in being, or exiſtent, or which at any time hereafter, ſhall or may grow due, or be anſwerable or payable, or of right ought to be paid to Us, our heirs or ſucceſſors, by any perſon or perſons, bodies politick or corporate, by reaſon of any term, charter, patent, leaſe, demiſe, or grant, made or to be made of any manors, meſſuages, lands, tenements, or hereditaments, or of any rights, royalties, offices, liberties, franchiſes, or immunities whatſoever, within our ſaid realm of Ireland. And alſo of and for all and every other the revenues, duties, incomes, profits, benefits, and advantages, of what nature or kind ſoever, which ſhall or may, or ought to happen, come, ariſe, grow, accrue, or be due, anſwerable, payable, compounded, accounted for, reſerved or appointed to be paid unto Us, our heirs and ſucceſſors, for our uſe or uſes, from any perſon or perſons, bodies politick or corporate, or for any cauſe, matter, or thing whatſoever, in our ſaid kingdom of Ireland, or whereunto We, our heirs and ſucceſſors, ſhall or may be any ways juſtly entitled, by virtue or in purſuance of all or any of the ſtatutes or acts, laſt before-mentioned, or by any acts, ſtatutes, laws, or cuſtoms, now in force in our ſaid kingdom of Ireland, or by any outlawry, attainder, or forfeiture, or by any cuſtom, uſage, preſcription, right, prerogative, covenant, condition, agreement, tenure, charter, patent, leaſe,

leaſe, demiſe, or grant, made or to be made of any manors, meſſuages, lands, tenements, or hereditaments, or of any rights, liberties, privileges, liberties, royalties, franchiſes, or immunities whatſoever, or which We, our heirs or ſucceſſors, by any lawful ways or means, can or may receive, within our ſaid kingdom of Ireland, whether the ſame be great or ſmall branches of our revenue, certain or caſual, ordinary or extraordinary, or otherwiſe whatſoever, or howſoever, happening or ariſing within our ſaid kingdom of Ireland. AND We do hereby give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, or any three or more of you, or ſo many of you as by the laws and ſtatutes of our ſaid kingdom of Ireland, are appointed to be a quorum, full power and authority in and throughout our ſaid kingdom of Ireland, to exerciſe, execute and put in due execution, all and every the powers and authorities, that by the act made in the parliament, which was held at Dublin, in the fourteenth and fifteenth years of the reign of our late royal brother predeceſſor King Charles the II. entitled " An act for the " ſettling the exciſe or new impoſt upon his Majeſty, his " heirs and ſucceſſors, according to the book of rates therein " inſerted," are given, granted and confirmed unto us, or which are thereby directed or appointed to be done by us, or by any perſon or perſons, who by virtue or in purſuance of the ſaid act, are to be conſtituted or appointed commiſſioners, governors, officers and miniſters for the execution thereof reſpectively, in as full and ample manner, as we, they, or any others thereunto authorized by the ſaid act, may, might or ought to do, by virtue of and according to the true intent and meaning of the ſaid act. AND We do hereby further give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, or any three or more of you, full power and authority, during our will and pleaſure, to

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exerciſe and execute, all other the powers, privileges and authorities whatſoever, of right to Us belonging or appertaining, for the due managing, levying, ordering and receiving our aforeſaid revenues, committed to your charge, and the arrears thereof, and all ſums of money which are or ſhall be due and payable unto Us, by reaſon thereof. AND We do hereby give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, and your deputies, ſubſtitutes, collectors, officers and agents, full power and authority during our will and pleaſure, to demand, ſue for, diſtrain, proſecute and recover, or cauſe to be demanded, received, levied, collected, ſued for, diſtrained, proſecuted, and recovered, and by your deputies, ſubſtitutes, collectors, officers and agents, to receive, levy, and collect in the ſeveral and reſpective counties, baronies, places, cities, and towns corporate, and elſewhere, within our ſaid kingdom of Ireland, all and every and other our revenues, profits and incomes committed to your care and management, and all ſuch ſum and ſums of money, due and in arrear, or that ſhall grow due, and payable unto us, by virtue of the aforeſaid act of exciſe or new impoſt, or for or on account of any other of the revenues, hereby committed to your care and management; and to do all matters and things touching the well ordering, governing, receiving, levying and collecting all other the ſaid revenues and premiſſes, as ſhall be agreeable to law. AND We do hereby give unto you the ſaid I. B, I. B, I M. M, I. S, and R. T, or any three or more of you in manner as aforeſaid, full power and authority to nominate, conſtitute and appoint, with the approbation of the Lord Lieutenant, Lord deputy, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being, an agent or ſolicitor, and alſo ſub-commiſſioners, deputies, collectors, accomptants, clerks, ſurveyors, waiters,

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waiters, ſearchers, gaugers and all other inferior officers, reſpectively, as you may have occaſion to employ for our ſervice, touching the ſaid exciſe or new impoſt, or touching any of our revenues committed to your care and management, at or in the ſeveral counties, cities, burroughs, baronies, towns, pariſhes, and places of this kingdom, and the iſlands and territories thereunto belonging, from time to time, ſave and except a ſecretary to our ſaid commiſſioners of exciſe, and ſave and except all and every the officers and collectors of our revenue of Hearth-money, and ſave and except all and every ſuch officer or officers as have been heretofore nominated or appointed by Us, or by our Lord high Treaſurer, or our Lords commiſſioners of the treaſury of Great-Britain, for the time being, as fully as the late or any former commiſſioners of the exciſe, or chief governor or governors and council, or the Lord Treaſurer of Ireland, or any others, are by the ſaid act of parliament, or by the laws and ſtatutes of this realm directed, authorized and impowered, or as may lawfully be done or granted by Us, in relation to the ſaid exciſe and new impoſt, or our ſaid ſeveral other duties and revenues, committed to your management by theſe our letters patent; and any ſuch agent or ſolicitor, and alſo any ſuch ſub-commiſſioners, collectors, receivers, accomptants, clerks, ſurveyors, ſearchers, and other inferior officers, already appointed, or hereafter to be appointed, in relation to our ſaid revenue of exciſe or new impoſt, or in relation to our other revenues, by theſe our letters patent, committed to your care and management, with the like approbation as aforeſaid, to remove and diſplace, and with the like approbation as aforeſaid, to conſtitute and appoint others in their places reſpectively, according as you the ſaid I. B, I. B, I. M. M, I. S, and R. T, or any three or more of you, ſhall think fit or requiſite for our ſervice,

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and to take and receive, or cauſe to be taken and received, in our name, and to our uſe, ſuch ſecurity from the reſpective collectors and other officers, employed or to be employed, touching our ſaid revenue of exciſe or new impoſt, or any other our revenues, by theſe our letters patent, committed to your care and management, for the faithful diſcharge of their reſpective truſts, as you the ſaid I B, I. B, I. M. M, I. S, and R. T, or any three or more of you, reſpectively, ſhall approve of and think reaſonable, and to allow the ſaid agent or ſolicitor, ſub-commiſſioners, collectors, receivers, accountants, clerks, ſurveyors, waiters, ſearchers, gaugers and other inferior officers, ſuch ſalaries as are already allowed or hereafter ſhall be allowed approved by Us, or by our Lord high treaſurer, or our Lords commiſſioners of the treaſury of Great-Britain, for the time being, and to iſſue warrants for payment of ſalaries, rewards and incidents ſubject to ſuch approbation and allowance as aforeſaid. AND We do hereby give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, our ſaid commiſſioners of exciſe, or any three or more of you as far as by law We may, full power and authority, if you ſhall think fit, with the conſent and approbation of Us, or our Lord high treaſurer or Lords commiſſioners of the treaſury, for the time being, firſt had and obtained, from time to time, to farm our ſaid revenue of exciſe, and licenſes upon beer and ale, and wine and ſtrong waters, and alſo our ſaid revenue of hearth-money, throughout our whole realm of Ireland, or ariſing in any particular place thereof. PROVIDED the ſaid farms do not exceed the term of one year. AND WHEREAS, the exciſe upon foreign goods imported, is not payable by the merchants till the goods are ſold, and yet in ſome caſes it would be for our ſervice to have the monies advanced. WE DO hereby give and grant unto you,

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you, the ſaid I. B, I. B, I. M. M, I. S, and R. T, or any three or more of you, full power and authority, if you ſhall think fit, to agree with any ſuch merchant for the exciſe of ſuch goods imported and unſold, and to allow him in the compoſition, ſuch reaſonable ſatisfaction for the advance of his money, as to you ſhall ſeem reaſonable. AND We do hereby give and grant unto you the ſaid I B, I. B, I. M. M, I. S, and R. T, or any three or more of you reſpectively, or to ſo many of you as may by law have full power and authority, where ye ſhall find reaſonable to compound, diſpenſe with, remit or mitigate any fine, penalty, or forfeiture, whereunto We ſhall or may be entitled by virtue of the ſaid acts; ſo as the ſame do not extend to any forfeiture ariſing from the act of tonnage and poundage, or any other law concerning our revenue of cuſtoms, and ſo as the duty if paid do not exceed 40 ſhillings, and ſo as no part of the duties thereby ariſing to Us, be loſt or leſſened, and that the charge of recovery be reimburſed to Us, if any ſuch charge ſhall be. AND We do hereby grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, reſpectively, and every one of you, full power and authority to adminiſter ſuch oaths as by law may be adminiſtered to any perſon, for the due execution of the premiſſes. AND We do hereby grant unto you the ſaid I. B, I. B, I. M. M, I. S, and R. T, or any three or more of you, full power as far as by law We may, to compound, as to any three or more of you ſhall ſeem meet, any the ſeizures or things forfeited, for not paying the duties impoſed thereon, ſo as the duty if it had been paid, had not exceeded forty ſhillings, and the perſons finally to acquit. AND We do hereby direct, appoint, and empower all our ſaid collectors and ſub commiſſioners, of our revenue, to pay all monies collected by them, to our vice treaſurer, receiver general or caſhier in our ſaid

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kingdom of Ireland, for the time being, as We, our high treaſurer or our commiſſioners of the treaſury, for the time being ſhall direct, except what they ſhall be ordered by you, our ſaid commiſſioners of exciſe, to pay for the ſeveral ſalaries, rewards and incident charges as aforeſaid, according to the true intent and meaning of theſe preſents, and that they from time to time render unto you, or any three or more of you, our ſaid commiſſioners of exciſe reſpectively, an account of what they have collected or paid as aforeſaid. AND We do hereby require you our ſaid commiſſioners of exciſe, to lay before our lord lieutenant, or other chief governor or governors of Ireland, and our lord high treaſurer or the lords commiſſioners of our treaſury of Great-Britain, for the time being, once in every quarter of the year, or oftner if required, the eſtabliſhment of the ſeveral and reſpective officers ſo to be appointed by you as aforeſaid, and alſo an account of their reſpective ſalaries, and of all charges, and of all incident or contingent expences, in and about the management of our revenue of exciſe, and other our revenues and incomes committed to your charge, and that you our ſaid commiſſioners of exciſe, from time to time, as often as it ſhall be demanded, ſhall and do give an account to our lord lieutenant, or other chief governor or governors of Ireland, and to our lord high treaſurer or the lords commiſſioners of our treaſury of Great-Britain, for the time being, an account of all other your actings and proceedings, in purſuance of this our commiſſion, as often as it ſhall be demanded by our lord lieutenant, or other chief governor or governors of Ireland, or the lord high treaſurer, or the lords commiſſioners of the treaſury, for the time being. AND We do hereby require and command you our ſaid commiſſioners of the exciſe, and every of you, that you from time to time obſerve, perform, fulfil, and keep all and ſingular the orders,

orders, rules, inſtructions, and directions, which now are, or which ſhall, from time to time hereafter, be made to you by Us, or by our ſaid Lord Lieutenant or other chief governor or governors of our ſaid kingdom of Ireland, or by our lord high treaſurer, or by our commiſſioners of the treaſury for the time being, touching or concerning the better ordering, managing, collecting, and receiving the revenues herein before mentioned. AND We do hereby further authorize and impower you, our ſaid commiſſioners of exciſe or new impoſt, to proceed in and finiſh all cauſes and caſes whatſoever, which are or ſhall be left undetermined, by virtue of the late or any former commiſſion or commiſſions granted by Us or our late royal grandfather to any former commiſſioners for the management of our revenues of our ſaid kingdom of Ireland. KNOW YE FURTHER, that We of our ſpecial grace, certain knowledge, and mere motion, by and with the advice and conſent aforeſaid, and according to the tenor and effect of our aforeſaid letters, have nominated, conſtituted, and appointed, and by theſe preſents do nominate, conſtitute, and appoint you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, Eſqrs. to be our commiſſioners for the managing and cauſing to be levied and collected our cuſtoms and ſubſidies herein after mentioned, ariſing, or which are or ſhall be anſwerable, due, owing, or in arrear, or payable to Us, within our ſaid kingdom of Ireland, by virtue of an act, entitled, "an "act for ſettling the ſubſidy of poundage and granting a "ſubſidy of tonnage and other ſums of money unto his "royal Majeſty, his heirs and ſucceſſors, the ſame to be "paid upon merchandizes imported or exported, into or "out of the kingdom of Ireland, according to the book of "rates hereunto annexed;" and alſo for the management of all ſuch cuſtoms, ſubſidies, duties, and revenues, granted and payable, or which ſhall be payable to Us, within our

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ſaid kingdom of Ireland, as cuſtoms, and which by any law, uſage, or ſtatute of our ſaid realm, ought to be collected, levied, or managed by our commiſſioners of the cuſtoms; and alſo for the management of our revenue of prizage and butlerage; and alſo our chief commiſſioners and governors in and throughout our ſaid kingdom of Ireland; and of and for all and every other our revenues, profits, and incomes, whatſoever or howſoever, due, or to grow due, and payable, or happening or ariſing to Us, within our ſaid kingdom of Ireland, certain or caſual, ordinary or extraordinary, except our revenue of exciſe, and ſuch other revenue which by particular acts of parliament are committed to our commiſſioners of exciſe of our ſaid kingdom of Ireland, which We have before directed to be committed to the ſaid I. B, I. B, I. M. M, I. S, and R. T, at the yearly ſalary or allowance of One thouſand pounds ſterling, unto each of you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, reſpectively, during our pleaſure; the ſalaries of the ſaid I. B, I. B, I, M. M, I. S, R. T, and I. A, to commence from the time to which they were laſt paid by virtue of the aforeſaid commiſſions or letters patent, and the ſalary of the ſaid H. L, to commence from the date of theſe our letters patent, out of our ſaid revenues; the ſaid ſalaries to be paid to you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, reſpectively, out of our ſaid revenues, during our pleaſure, quarterly, at the four moſt uſual feaſts or times of the year, (that is to ſay) the feaſt of the birth of our Lord Chriſt, the feaſt of the annunciation of the Bleſſed Virgin Mary, the feaſt of St. John the Baptiſt, and the feaſt of St. Michael, the Archangel, by even and equal portions. AND We do give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, your deputies, ſubſtitutes, collectors, officers, and agents, full power and authority

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authority to demand, ſue for, proſecute and recover, or cauſe to be demanded, received, levied, collected, ſued for, proſecuted and recovered, and by your deputies, ſubſtitutes, collectors, officers, and agents, to receive, levy, and collect, in and throughout our whole kingdom of Ireland, all and every our ſaid cuſtoms, ſubſidies, and revenues, due, and in arrear, or that ſhall grow due and payable unto Us, by virtue of the before recited act of parliament, or by any law, uſage, or ſtatute of this kingdom, whereby any duty of cuſtom is coming or made payable to Us, and which ought to be levied and managed by the commiſſioners of cuſtoms, and to do, perform, and execute all and ſingular the powers and authorities given unto Us by force and virtue thereof, and to do all matters and things touching and concerning the well-ordering, governing, receiving, levying, and collecting the premiſſes, as ſhall be agreeable to law. AND We do hereby give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, or any four or more of you, or ſo many of you as by the laws and ſtatutes of our ſaid kingdom of Ireland are appointed to be a quorum, full power and authority, in and throughout our ſaid kingdom of Ireland, to exerciſe and execute, and cauſe to be duly obſerved and executed, all and every the powers and authorities that by an act made in the fourteenth and fifteenth years of the reign of our late royal predeceſſor King Charles the IId, entitled, "An act for ſettling the ſubſidy of "poundage, and granting a ſubſidy of tonnage and other "ſums of money unto his royal Majeſty, his heirs and "ſucceſſors, the ſame to be paid upon merchandizes im-"ported and exported into or out of the kingdom of Ireland, "according to a book of rates hereunto annexed," or any other law or ſtatute of our ſaid realm, whereby any duties of cuſtoms are given, granted, or confirmed unto Us, or which

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which are thereby directed or appointed to be done by Us, or any perſon or perſons, who by virtue or in purſuance of the ſaid act, or any other law or ſtatute of our ſaid realm, are to be conſtituted or appointed commiſſioners for the execution thereof, reſpectively, in as full and ample manner as We, they, or any others thereunto authorized by the ſaid act, or any other law, might or ought to do according to the true intent and meaning thereof. AND We do hereby further give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, or any four or more of you, full power and authority, during our will and pleaſure, to exerciſe and execute all other the powers, privileges, and authorities whatſoever, to Us of right belonging or appertaining, for the due managing, levying, ordering, and receiving ſuch cuſtoms, ſubſidies, duties, and revenues, granted or payable to Us, within our ſaid kingdom of Ireland, which by any law, uſage, or ſtatute, ought to be collected, levied, or managed by our ſaid commiſſioners of the cuſtoms, and alſo of our ſaid revenue of prizage and butlerage. AND We do hereby grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, and your deputies, ſubſtitutes, collectors, officers, and agents, full power and authority, during our will and pleaſure, to demand, ſue for, diſtrain, proſecute and recover, or cauſe to be demanded, received, levied, collected, ſued for, diſtrained, proſecuted and recovered, and by your deputies, ſubſtitutes, collectors, officers, and agents, to receive, levy, and collect, in the ſeveral and reſpective counties and places within our ſaid kingdom of Ireland, all ſuch ſum and ſums of money due and in arrear, or that ſhall grow due and payable to Us by virtue of the aforeſaid act, or any law, uſage, or ſtatute, whereby any duties of cuſtoms, or of prizage and butlerage, are granted or payable

payable to Us, and to do, or cauſe to be done, all other matters and things whatſoever, which by any commiſſioners for the time being, intruſted with the receipt and management of our cuſtoms, can or may be lawfully done. AND We do hereby grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, or any four or more of you, full power and authority, from time to time, and as often as need ſhall be, to conſtitute and appoint by any writing under your hands and ſeals, or under the hands and ſeals of any four or more of you, by and with the approbation of the Lord Lieutenant, the Lord deputy, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being, an agent, or ſolicitor, collectors, ſurveyors, accomptants, clerks, ſearchers, waiters, gaugers, and all other officers, which ſhall be neceſſary for our ſervice, for the management and collection of our ſubſidies, cuſtoms, duties, and other revenues committed to your care; except ſuch as have been or ſhall hereafter be appointed by our letters patent under the great ſeal of our ſaid kingdom; and them and other ſuch officers already appointed, to ſuſpend, remove, or diſplace, as by you our ſaid commiſſioners, or any four or more of you, ſhall be thought neceſſary or expedient for our ſervice in the premiſſes; and to conſtitute and appoint others in their place, by and with ſuch approbation as aforeſaid; and alſo to pay ſalaries or other rewards to all or any ſuch officers as aforeſaid; the ſame being firſt ſettled, allowed, and approved of by the Lord Lieutenant, the Lord deputy, or other chief governor or governors of our ſaid kingdom of Ireland for the time being; and alſo full power and authority to call all collectors, receivers, and other officers of our cuſtoms, to account for all monies received by them, touching our ſaid revenues, in as full and ample manner as commiſſioners of our cuſtoms have at any time heretofore

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fore had exerciſed or enjoyed, or may by law be granted to them, touching the cuſtoms, ſubſidies, duties and revenues committed to their charge, care, and management. AND We do likewiſe authorize all collectors, receivers, and other officers of our ſaid cuſtoms, to adminiſter ſuch oath or oaths from time to time, and as often as need ſhall require, to any perſon or perſons, for or concerning the premiſſes, as by law in any ſuch caſes can or lawfully may be adminiſtred. AND We do hereby grant unto you our ſaid commiſſioners or any four or more of you, full power to grant bills of portage, to maſters of ſhips, according to uſage, and alſo bills of ſtores to the merchants, to the value of ten ſhillings in cuſtoms; and that you our ſaid commiſſioners reſpectively, or any four or more of you, ſhall have full power and authority to iſſue out warrants to our receiver general or caſhier, for the time being, or to any collector or deputy collector, or receiver of our ſaid revenue, to expend, lay out, and pay, or cauſe to be paid and allowed to the ſaid officers, or any other perſon or perſons, ſuch ſums of money, for ſalaries or rewards, and for extraordinary incident or contingent charges, as ſhall neceſſarily ariſe in or for the management of our ſaid revenue, or any of them, or for or by reaſon of any quarantine or quarantines that ſhall or may be neceſſary, ſubject to the allowance or approbation of our ſaid Lord Lieutenant, or other chief governor or governors of Ireland, for the time being. AND We do hereby direct, appoint and empower all our collectors and other officers of our ſaid revenue, to pay all monies collected by them, to our vice treaſurer, receiver general, or caſhier in our ſaid kingdom of Ireland, for the time being, as We, our Lord High Treaſurer, or Lords commiſſioners of the treaſury of Great-Britain, for the time being ſhall direct, except what they ſhall be ordered by you our ſaid commiſſioners to

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pay for the ſeveral ſalaries, rewards, and contingent or incident charges as aforeſaid, according to the true intent and meaning of theſe preſents, and that they from time to time render unto you, or any four or more of you our ſaid commiſſioners reſpectively, as often as the ſame is required, an account of what they have collected or paid as aforeſaid. AND our further will and pleaſure is, and we do hereby direct, that you our aforeſaid chief commiſſioners of our revenue, for the future, once in every quarter of the year, or oftner if required, ſhall attend with and lay before our Lieutenant General, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being, the eſtabliſhment and the expence of the management of our revenues, hereby committed to your charge, and all the incident or contingent charges neceſſarily ariſing therein; and you ſhall likewiſe once in every quarter of the year, tranſmit the ſame to our Lord high Treaſurer, or Lords commiſſioners of the treaſury of Great-Britain, for the time being. AND We do hereby require and command you our ſaid commiſſioners of our ſaid cuſtoms, and every of you, that you do from time to time obſerve, perform and keep, all and ſingular the orders, rules, inſtructions and directions, which now are, or which ſhall from time to time hereafter be made or given to you, by Us, or by our ſaid Lord Lieutenant, or other chief governor or governors of our ſaid kingdom of Ireland, or from our high Treaſurer or our commiſſioners of the treaſury, for the time being. AND We do hereby require you our ſaid commiſſioners of our cuſtoms reſpectively, from time to time, to give an account to our ſaid Lord Lieutenant or other chief governor or governors, and to our Lord high Treaſurer, or Lords commiſſioners of the treaſury of Great-Britain, for the time being, of your actings and proceedings in purſuance of this our commiſ-

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ſion, as often as it ſhall be demanded of you, by our ſaid Lord Lieutenant or other chief governor or governors of Ireland, or by our Lord high Treaſurer, or Lords commiſſioners of the treaſury of Great-Britain, for the time being. KNOW YE FURTHER, that we of our ſpecial grace, certain knowledge and mere motion, by and with the advice and conſent aforeſaid, and according to the tenor and effect of our aforeſaid letters, have authorized and empowered, and by theſe preſents do authorize and empower you the ſaid I. B, I. B. I. M. M, I. S. R. T, I. A, and H. L, or any three or more of you, being our commiſſioners of cuſtoms and exciſe, to appoint ſuch perſon and perſons, as you ſhall think fitting, to be the officer or officers, collector or collectors, for receiving and collecting the duty ariſing and to ariſe, by or from hearths, firing-places and ſtoves, and ſo, from time to time, as often as there ſhall be occaſion, by death, removal or otherwiſe, to appoint ſuch perſon or perſons as you ſhall think fitting, to be ſuch officer or officers, collector or collectors as aforeſaid; all which ſaid officers ſo to be appointed, are to have all ſuch powers and authorities, as if they had been ſeverally appointed, according to the directions of the act of the ſeventeenth and eighteenth years of the reign of King Charles the II, recited in the ſaid herein before recited act of the third year of our reign, and are to be ſubject to ſuch rules, regulations and directions, as ſuch officers and collectors have by law been under and ſubject to. AND We do hereby order and direct, that you our ſaid commiſſioners of our cuſtoms and exciſe, ſhall certify from time to time, to our Lieutenant General, deputy, or other chief governor or governors of our ſaid kingdom of Ireland, and to our high Treaſurer, or commiſſioners of our treaſury for the time being, the name and names of all and every

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perſon or perſons, who ſhall be by you appointed as aforeſaid, and the ſalary and ſalaries propoſed for him and them reſpectively; and that no officer or officers, collector or collectors, to be appointed as aforeſaid, ſhall receive any ſalary, until ſuch ſalary ſhall have been firſt approved of, by our lieutenant deputy, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being. AND We do hereby alſo direct, that you our commiſſioners of cuſtoms and exciſe aforeſaid, once in every year ſhall lay before our lieutenant deputy, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being, the eſtabliſhment and the expence of the management of our ſaid revenue of hearth-money, to be by our ſaid lieutenant deputy, or other chief governor or governors of our ſaid kingdom of Ireland, for the time being, approved of and tranſmitted by them to us, or the commiſſioners of our treaſury for the time being. AND We do hereby give and grant unto you the ſaid I. B, I. B, I. M. M, I. S, R. T, I. A, and H. L, herein and hereby appointed, that when, and as often as you or any of you ſhall happen to die, or depart this life in our ſaid ſervice hereby to you committed, or ſhall be removed therefrom, that then and in every ſuch caſe, ſo much of your and every of your ſalary or ſalaries reſpectively, computed by the day, as ſhall have incurred to the day of ſuch death or removal, ſhall be paid to you, your executors and adminiſtrators reſpectively; all and every of which before-mentioned ſalaries, allowances, annuities, rewards, incident or contingent charges, ſhall be paid and allowed out of the ſaid revenues, profits and incomes, by the order or by the orders of any three or more of you reſpectively, without your being charged with the monies paid in reſpect of your ſigning the order for the ſame. AND WHEREAS, We have made ſufficient

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cient proviſion for the payment of, and anſwering all the monies ariſing by or out of the ſaid reſpective revenues, hereby committed to the management of you our ſaid commiſſioners reſpectively as aforeſaid, We do hereby for Us, our heirs and ſucceſſors, grant and declare that you our ſaid commiſſioners of cuſtoms and exciſe, and you our ſaid commiſſioners of cuſtoms, and every of you, your heirs, executors and adminiſtrators, and every of them reſpectively, ſhall be and remain for ever clear, free and finally diſcharged, off and from all ſums of money whatſoever, growing and accruing as aforeſaid, and of and from rendering unto Us, our heirs and ſucceſſors, any account for the ſame or any part thereof, or for any fines, penalties or forfeitures, compounded, remitted or mitigated, or from any exciſe upon foreign goods, imported and unſold, and compounded for, which ſhall not be received by you, notwithſtanding the ſaid monies ſhall have been, or may be collected by any perſon, deputed or deriving authority from you our ſaid commiſſioners reſpectively, or any three or more of you; notwithſtanding ſuch perſon ſhall not pay or anſwer the ſame to our vice treaſurer, or receiver general, or to ſuch receiver or officer as we have or ſhall appoint to receive the ſame; and that neither you our ſaid commiſſioners reſpectively, nor your heirs, executors, or adminiſtrators, ſhall be by Us, our heirs or ſucceſſors, ſued for, proſecuted, or any way moleſted in your or their eſtates, perſons or goods, in any of our courts whatſoever, for or by reaſon of any thing you or any of you ſhall act or do, by virtue of theſe our letters patent, and the powers thereunto reſpectively belonging, or by any expoſition or conſtruction thereupon, ſave for voluntary or particular misfeazance, done or acted by you, or any of you. AND We do hereby declare and grant, that you our ſaid commiſſioners reſpectively, and every

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every of you, and thoſe employed by you, or under you, during your continuance in this our ſervice, be exempted from ſerving upon juries, or bearing any civil or military office. AND our further will and pleaſure is, and We do hereby direct, that no perſon ſhall at any time hereafter aſſume or exerciſe any office in our revenue aforeſaid, or receive any ſalary thereunto annexed, until he ſhall be firſt approved of by our ſaid Lord Lieutenant, or other chief governor or governors of our ſaid kingdom of Ireland for the time being, ſuch only excepted as ſhall be appointed by letters patent under the great ſeal of our ſaid kingdom of Ireland. AND We do by theſe preſents require and command you our ſaid commiſſioners and governors of our revenue aforeſaid, reſpectively, that you and every of you, in manner aforeſaid, do carefully and diligently attend the execution and diſcharge of the reſpective truſts aforeſaid, in and by all things as becometh. AND We do hereby ſtrictly charge and command all officers of the admiralty, and all perſons deriving any authority from the Lord High Admiral, or commiſſioners of the admiralty, and all and every juſtice and juſtices of the peace, mayors, ſheriffs, bailiffs and conſtables, head boroughs, cuſtomers, collectors, comptrollers, clerks of the peace, and all other our officers and miniſters whatſoever, within every county, city, borough, or corporation, barony, pariſh, or place, and all other officers and miniſters, and all other our ſubjects whatſoever, that they and every of them, from time to time, be aiding and aſſiſting to you our ſaid commiſſioners and governors reſpectively, and to the ſub-commiſſioners, collectors, comptrollers, and to all other officers and miniſters whatſoever, which are or ſhall be appointed by you, and to all and every perſon and perſons employed in the execution of all and ſingular and every the powers, privileges, and authorities, and other

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the premiſes to you hereby given or granted, or in obeying or executing ſuch directions or precepts, as ſhall from time to time be directed unto you, for the due execution of this commiſſion, as becometh, under pain of our diſpleaſure, and ſuch other penalties, as by the acts and ſtatutes of this realm, can or may be inflicted upon them, for their negligence and contempt in that behalf, as they will anſwer the contrary at their utmoſt perils. PROVIDED always that this our commiſſion be enrolled in the rolls of our high court of Chancery, in our ſaid kingdom of Ireland, within the ſpace of ſix months next enſuing the date of theſe preſents. IN WITNESS whereof, we have cauſed theſe our letters to be made patent. WITNESS our aforeſaid Lieutenant General and General Governor of our ſaid kingdom of Ireland, at Dublin, the twenty fourth day of December, in the fifteenth year of our reign.

CONWAY.

No. 3.

No. 3.

The POWERS granted by Law to the different BOARDS of EXCISE and CUSTOMS, reſpectively; and what particular branches of the REVENUE of IRELAND fall properly under each board; according to a report drawn up, and delivered to the Lord Lieutenant of Ireland, by the counſel to the commiſſioners, and others of his Majeſty's law ſervants; 7 March 1772, upon the then diviſion of the two boards; wherein they were of opinion,

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Commiſſioners of exciſe have the management of the revenues ariſing from the act of exciſe.

THAT the management of the revenue of exciſe is granted to the commiſſioners of exciſe; and that to them, their deputies, ſubſtitutes, collectors, officers and agents, power and authority are given to demand, ſue for and recover, all ſums of money due and payable to his Majeſty, by virtue of the act of exciſe.

The management of the additional and other duties, &c. and alſo the revenue and profits ariſing from licences,

and of hearth-money, quit, crown, and compoſition rents, &c. caſual revenue,

That the management of the ſeveral additional and other duties, rates, impoſitions and taxes, granted to his Majeſty during this ſeſſion of parliament, is by the acts, granting the ſame veſted in the commiſſioners of exciſe; and that to them alſo is granted the management of the revenues and profits, ariſing from licences for ſelling beer, ale, wine and ſtrong waters. That the management alſo of the hearth-money,* quit rents, crown rents, compoſition rents, and all other rents payable to his Majeſty, together with the caſual revenue, is granted to the commiſſioners of exciſe.

* See before, p. 90, 91, how this article, as alſo, p. 84, 86, how the following ones of *prizage* and *butlerage* have been altered in the new patent to the commiſſioners. As for the *light-houſe duties*, ſee vol. I. p. 81.

And

No. III. and of light-houſe duties, prizage, and butlerage.

And by their ſaid report they obſerved, that in the patent to the commiſſioners of exciſe, a general power is given to demand, receive, levy, and collect, ſue for, proſecute and recover, all other his Majeſty's revenues, profits, and incomes, ſum and ſums of money due and in arrear, to grow due and payable by virtue of the acts therein recited, or otherwiſe howſoever; under which, they conceived, the management of the light-houſe duties, prizage and butlerage, is likewiſe granted to the commiſſioners of exciſe; but concerning the wool licences they gave no opinion, as the circumſtances relative to the collection thereof had not been ſtated to them *.

Commiſſioners of cuſtoms have the management of the cuſtoms and ſubſidies ariſing by virtue of the act of tunnage and poundage.

And as to the cuſtoms and ſubſidies ariſing and payable to his Majeſty within this kingdom, by virtue of the act of tunnage and poundage, they were of opinion, that the management thereof is granted to the commiſſioners of cuſtoms, and that to them, their deputies, ſubſtitutes, collectors, officers, and agents, power and authority are given to demand and receive, ſue for and recover, all his Majeſty's ſaid revenues, due and payable by virtue of the act of tunnage and poundage.

* Before the merchant is permitted to paſs an entry for the exportation of any wool, it muſt appear that the veſſel in which the ſame is intended to be ſhipped has been duly regiſtered, and alſo that licence has been obtained in England from the officers of the cuſtoms of ſome port in that kingdom, that ſuch particular veſſel may load ſuch wool, &c. in Ireland. And upon producing ſuch Britiſh licence, a licence may be obtained from the Lord Lieutenant or chief governor of Ireland for ſhipping the ſame, on payment of 4*d* per ſtone, (which is the uſual fee) and directed to the cuſtomer and collector, *and is in general terms*, allowing the exportation thereof to Great-Britain within the term of three months. But ſee the ſtat. 10 and 11 Will. III. c. 10. 12 Geo. II. c. 21. §. 11. and 26 Geo. II. c. 11. S. 1. Brit. See alſo the licences, bond, certificate, &c. hereafter.

With

With reſpect to the powers granted to each Board, *and, firſt, to the* Commiſſioners *of* Exciſe,

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Commiſſioners of exciſe, &c. have power to appoint gaugers, &c.

They were of opinion, that the commiſſioners of exciſe, or their ſub-commiſſioners, reſpectively, have power to appoint ſuch and ſo many gaugers or ſearchers as they may find needful, to enter by night or day into all houſes and places whatſoever belonging to any brewer, ſeller of ale, or diſtiller, &c. and to gauge the veſſels of any brewer, and to take an account of the liquor brewed and diſtilled, from time to time, by any brewer or diſtiller.

and to compound with retailers of beer, ale, or ſtrong waters, for the exciſe thereof,

That the commiſſioners of exciſe or their ſub-commiſſioners, are impowered to compound with any perſon who retails or ſells in his houſe, beer, ale, or ſtrong waters, for the exciſe thereof, for any time not exceeding twelve months, at ſuch rates, to be paid monthly, as the commiſſioners of exciſe of ſub-commiſſioners ſhall judge reaſonable; not being leſs, however, than the exciſe of ſuch perſons amounted to at any time for twelve months before.

and to appoint clerks, ſearchers, waiters, &c. for the ſuburbs and liberties of Dublin.

That the commiſſioners of exciſe are appointed governors and chief commiſſioners of the office of exciſe in Dublin; they have power likewiſe, with the approbation of the chief governors, to chooſe and appoint ſuch fitting clerks, ſearchers, waiters, meſſengers, and all other officers for the city, ſuburbs, and liberties of Dublin, the port of Dublin, and the ſeveral clerks and members thereof, as they may neceſſarily have occaſion to employ for the advantage of his Majeſty's ſervice; and the ſame again, from time to time, with the approbation of the chief governors, to diſplace, and place others in their room; and to allow

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every of them ſuch yearly wages and other incidental rewards for their pains and ſervice, as they ſhall think fit and reaſonable, and as ſhall be allowed and approved of by the chief governor for the time being *.

Pariſhes and places of the city and county of Dublin ſubject to the commiſſioners of excife.

And that all pariſhes and places of the city and county of the city of Dublin, and county of Dublin, are, ſubject to the rule and government of the commiſſioners of excife.

May appoint officers of excife and ſub-commiſſioners or collectors in any county, &c.

Alſo, that one or more office or offices of excife, and in them ſuch and ſo many ſub-commiſſioners or collectors are to be, from time to time, nominated and appointed in all or any of the counties, cities, towns, ports, and places of this kingdom, as the commiſſioners of excife, or the major part of them, ſhall from time to time think fit; to be approved of, however, by the chief governor and privy council for the time being.

Have power to frame and give inſtructions to all officers employed.

That the commiſſioners of excife alſo have power to frame and give inſtructions, from time to time, to the ſeveral officers employed under them; provided the ſame be approved of by the chief governor and privy council; and they may puniſh, by fine and diſmiſſion, all ſuch officers as ſhall not obſerve the inſtructions ſo given to them, or ſhall be wilfully negligent, remiſs, careleſs, or unfaithful, in the execution of their employment.

Have power to apply to have landing places aſſigned.

That the commiſſioners of excife have power of applying to the chief governor and privy council, to have landing places aſſigned and appointed, agreeable to the act of excife.

* See before, the patent to the commiſſioners of the revenue, and the ſeveral clauſes therein relating to the appointment of officers of excife and cuſtoms.

And

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And that the commiſſioners of exciſe may cauſe any goods landed on the quay to be removed from thence, within ten days after ſuch goods ſhall be ſo landed thereon. And all wines imported, and alleged by the merchant to be damaged, corrupt, or unmerchantable, they may order to be ſtaved, ſpilled, or mixt with ſalt.

May cauſe goods landed on the quay to be removed within ten days, and to ſtave, &c. corrupt wines.

That the commiſſioners of exciſe have power to iſſue and grant licences for ſelling beer, ale, wine, ſtrong waters, and ſpirits, in all or any of the diſtricts in this kingdom; and may take ſecurity by recognizance from the perſon applying for ſuch licence.

May grant licences for ale, wine, and ſtrong waters, and take ſecurity by recognizance for the ſame.

They may alſo licenſe chymiſts, apothecaries, and druggiſts, to uſe ſtills of 40 gallons, and braziers and manufacturers in metal to make the ſame.

May licenſe chymiſts, apothecaries, and druggiſts to uſe ſtills,

And they were of opinion, that, under his Majeſty's letter patent, the ſaid commiſſioners have power to appoint collectors for raiſing the duty ariſing from hearths *.

and to appoint hearth money collectors.

That the commiſſioners of exciſe, their ſub-commiſſioners, &c. are authorized in the limits and diſtricts of their ſeveral offices to hear and determine all offences and breaches of the act of exciſe; to give judgment, and by diſtreſs levy any forfeiture, fine, or penalty, impoſed by the act of exciſe, or if no ſufficient diſtreſs can be had, to commit the party offending to priſon.

They and their ſub-commiſſioners authorized to determine offences, and to give judgment, &c. and by diſtreſs levy fines, &c.

That they have power likewiſe to adminiſter all oaths required to be made by the act of exciſe; except ſuch as are there otherwiſe appointed to be adminiſtered. If two or more perſons claim a reward on account of any ſeizure,

To adminiſter oaths, &c. and determine who have a right to rewards on account of ſeizures.

* By the late patent they are to be appointed by the commiſſioners of exciſe and cuſtoms. See before, pag. 90.

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they may determine who are entitled to the ſame. And with reſpect to forfeitures, incurred for ſelling ſpirits without licence, one commiſſioner of exciſe is impowered to determine the ſame.

One commiſſioner of exciſe is impowered to determine forfeitures for ſelling ſpirits without licence.

And they reported that they found, that by certain acts made in Great-Britain, the commiſſioners of exciſe, and ſub-commiſſioners, in their reſpective diſtricts, have power to hear and determine all offences againſt the ſeveral acts of parliament, made in Great-Britain, for preventing the unlawful exportation of wool and woollen manufactures out of this kingdom.

The commiſſioners of exciſe and ſub-commiſſioners have power to hear and determine offences relative to the exportation of wool.

They have likewiſe power to hear and determine offences againſt any act of parliament of force in this kingdom, for preventing the running of Eaſt India goods. And they are authorized to hear and determine all offences relating to the exportation or importation of glaſs contrary to law.

Alſo offences relative to Eaſt India goods; alſo to the importation or exportation of glaſs contrary to law.

Thus far, as they conceived, judicature is veſted in the board of exciſe, and in that board only.

2*dly*, *With reſpect to the powers granted to the* Commiſſioners *of* Cuſtoms, they were of opinion,

Commiſſioners of cuſtoms, impowered to ſecure and take out of veſſels from beyond ſea all fine goods of ſmall bulk.

That the commiſſioners of cuſtoms, and the reſpective cuſtomers and collectors of the cuſtoms, are impowered by warrant in writing, on the arrival of any veſſel with goods from beyond ſea, to ſecure and take out of ſuch veſſel all fine goods of ſmall bulk or package, as they have cauſe to ſuſpect are intended to be landed without payment of duties, and put the ſame into the ware-houſes of the reſpective cuſtom houſes, there to remain until payment of duties.

That

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That where any veſſel importing goods from beyond ſea, ſhall not unlade and diſcharge the ſame in ſome port of this kingdom, (wind and weather permitting) within 28 days after the arrival, the commiſſioners of cuſtoms, and the reſpective cuſtomers and collectors of the cuſtoms, have power to unlade and take on ſhore all the goods found in ſuch veſſel, and the ſame to ſecure in his Majeſty's ſtores; the charges of which is to be borne by the owners and claimers thereof, at ſuch moderate rates as the ſaid commiſſioners of cuſtoms, *&c.* ſhall judge equal; and for the faithful diſcharge of the duty of the officers employed therein, the commiſſioners of cuſtoms are required to take good ſecurity.

To unlade and take aſhore and ſecure all goods that remain 28 days after arrival.

That goods ſhipped with an intent to be exported, or goods imported and landed without the knowledge, privity, or conſent of the commiſſioners of the cuſtoms, or the reſpective cuſtomers or collectors of the cuſtoms, except in caſes of neceſſity, or before due entry and payment of duties and warrant in due form paſſed for the ſame, are forfeited.

Goods ſhipp'd to be exported, or goods imported and landed without the knowledge of the commiſſioners, cuſtomers, *&c.* forfeited.

That if goods imported from beyond ſea, are unſhipped and put into any veſſel, without the conſent or privity of the commiſſioners of cuſtoms, or the reſpective cuſtomers or collectors of the cuſtoms, teſtified in writing, ſuch veſſel in which the goods ſhall be put, will be forfeited.

If unſhipped and put into any veſſel without the conſent and privity of the commiſſioners *&c.* ſuch veſſel forfeited.

That before and during the unlading of any veſſel importing goods, the commiſſioners of the cuſtoms and the reſpective cuſtomers and collectors of the cuſtoms have power, and they are required as often as they ſhall ſee cauſe, to appoint one or more tide waiters or officers to go on

They may appoint tide waiters to go on board any veſſel importing goods, until unladen, *&c.*

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on board ſuch veſſel, there to remain on board until the goods be unladen, or they the ſaid waiters or officers ſhall be thence diſcharged.

If any goods be found on board concealed after clearing by them, the maſter, &c. forfeits £100.

And if after the clearing any veſſel by the commiſſioners of cuſtoms, collectors or other officers, or the diſcharging of tide waiters or other officers from unboard ſuch veſſel, any goods ſhall be found concealed, for which the duties were not paid, the maſter, owner, or perſon taking charge of the veſſel, forfeits £100.

Have power to authorize perſons to go on board any veſſel, to enter into any cellar, &c. to ſearch for, ſeize, and ſecure run-goods.

That for the better diſcovering of all prohibited goods, fraudulently landed at unlawful hours and places, the collector, ſurveyor, ſearcher, waiter, or other perſons authorized, deputed and appointed thereunto by the commiſſioners of the cuſtoms, under their hands and ſeals, or the major part of them, have power and authority, as well by night as by day, to go on board, and enter into any veſſel whatſoever, and likewiſe, at any time of the day, to enter into any cellar, ſhop, or warehouſe, (if they have juſt cauſe of ſuſpicion) to ſearch for prohibited goods; and likewiſe all goods laden, or intended to be unladen, without payment of cuſtoms, and the ſame to ſeize, carry away, and ſecure in the cuſtom houſe ſtores of the reſpective ports.

Where goods are damaged, &c. they are to chooſe two indifferent merchants to certify and declare on oath what damages ſuch goods received according to which

That where goods are damaged by ſalt-water, or otherwiſe, the commiſſioners of cuſtoms in the port of Dublin, and the principal officers of the cuſtom-houſe in all other ports, or any two of them, whereof the collector is always to be one, are to chooſe two indifferent merchants experienced in the value of ſuch goods, to certify and declare on oath, to be adminiſtered by ſaid commiſſioners and officers, what damage ſuch goods have received, and how far

far they are leſſened in their true value; according to which, a proportionable abatement is to be made out of the cuſtoms.

an abatement is to be made out of the cuſtoms.

That the commiſſioners of cuſtoms with the approbation of the chief governor and council, are impowered from time to time, to make ſuch rules to be obſerved by all merchants and officers in the ſeveral free ports appointed, or to be appointed under the act of cuſtoms, as they ſhall find fit and neceſſary.

Impowered with the approbation of the chief governor, &c. to make rules for merchants and officers.

And every merchant who ſuffers his goods to remain in any of the cuſtom-houſe ſtores, for more than eleven days, without entring and clearing the ſame, muſt pay for each further time as they continue there, ſuch reaſonable rates for ware-houſe room, as the commiſſioners of the cuſtoms, or the reſpective port collectors ſhall judge meet.

Merchants leaving their goods for more than 11 days without entring or clearing the ſame muſt pay for ware houſe room as the commiſſioners of cuſtoms think fit.

That the commiſſioners of the cuſtoms in the port of Dublin, and the collectors in the ſeveral other ports, are to nominate one or more ſearcher, or ſearchers, ſurveyor or waiter, to take charge of every ſhip, coming in or going out of port, to ſee the goods therein cleared and diſcharged; and every ſuch officer refuſing or neglecting ſo to attend, forfeits £3. for every default.

Commiſſioners of cuſtoms in Dublin-port to nominate proper officers to take charge of ſhips, to ſee the goods cleared and diſcharged, &c.

And every waiter or officer appointed to attend the lading and unlading of goods, muſt enter in a book to be given him for that purpoſe, by the commiſſioners of the cuſtoms, or the collectors of the ports, and in no other book or paper whatſoever, the name of the ſhip and maſter, to the lading or unlading whereof he ſhall be appointed; and underneath each ſhip or maſter's name, muſt enter

And the ſpecial duty of ſuch officers.

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enter the date of every warrant, cocket, tranſire or certificate, together with the quantities, qualities, numbers, weights, meaſures and marks, of the goods ſhipped or landed, or ſhipped off, which books are quarterly, or ſooner if required, or as ſoon as written out, to be delivered to the commiſſioners of the cuſtoms, or the reſpective collectors; and every officer who omits doing the ſame, or enters the goods diſcharged in any other book or paper, than the book ſo to be given him by the commiſſioners of cuſtoms or collectors, is to be diſcharged from his employment.

Are to be informed of every ſeizure made by any officer.

That the commiſſioners of cuſtoms are to be informed of every ſeizure, made by any officer of the cuſtoms; and every officer who makes any ſeizure, is not only to acquaint the commiſſioners of the cuſtoms therewith, but likewiſe to certify the ſame to the regiſter of ſeizures in the port of Dublin.

The port collectors are to ſend them abſtracts, &c. and quarterly accounts.

That the collectors of the ſeveral ports are monthly to ſend up to the commiſſioners of cuſtoms, an abſtract of their ſeveral receipts, and quarterly, an account of their quarters receipts; which account the commiſſioners are to deliver half yearly to the Auditor general.

And the commiſſioners of the cuſtoms are to have inſpection of their accounts and proceedings.

And the commiſſioners of the cuſtoms are to take and have inſpection of the accounts, actions and proceedings of collectors, and all other port officers, by viewing their books, papers and accounts, when and as often as they ſhall think fit.

And are to viſit the outports, &c. once every year at leaſt.

That the commiſſioners of the cuſtoms or ſome of them, are once every year at the leaſt, to viſit the ſeveral outports, to obſerve and take cognizance how the affairs of the

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the port are carried on; how the ſeveral officers demean themſelves in the diſcharge of their truſts; and to rectify things in the beſt manner, by giving ſuch fitting and further inſtructions for the due execution of the act of tunnage and poundage as they with the approbation of the chief governor and council ſhall think fit.

May grant bills of portage to maſters of ſhips, and bills of ſtores to maſters.

That the commiſſioners of cuſtoms have power to grant bills of portage to maſters of ſhips according to uſage; and alſo bills of ſtores to merchants to the value of ten ſhillings in cuſtoms. And the commiſſioners of his Majeſty's revenue (by which we apprehend that commiſſioners of the cuſtoms are in this inſtance meant) may, if they think proper, purchaſe for the uſe of his Majeſty any boat forfeited under the revenue act of 33 Geo. II.

May purchaſe any boat forfeited under the revenue laws.

May ſell by publick auction, &c. goods brought into the ſtores, &c.

That the commiſſioners of cuſtoms have power to ſell by publick auction or inch of candle, all periſhable goods brought into the King's ſtores, for ſecurity of cuſtoms, which ſhall remain there for the ſpace of two months, and all goods not periſhable which ſhall remain there for ſix months, the ſubſidies and duties not being paid or otherwiſe ſecured as the law directs.

Powers given them by Engliſh acts relative to the exportation of wool and woollen manufactures.

And, finally, they reported that they found that by the ſeveral acts of parliament made in England, relative to the exportation of wool and woollen manufactures from this kingdom, certain powers are given to the commiſſioners of cuſtoms; to which acts of parliament they craved leave to refer *.

* But note, the boards have been reſtored to their former ſituation (as may be ſaid) ſince the above report, and the old revenue patent ſince that period has been altered in ſeveral inſtances, and ſome additions made. And note, theſe commiſſioners appoint their ſecretary, but on the approbation of government.

No. III. Bond *for landing* Wool, *&c. in a Port in* England, *purſuant to the notice in the ſtat.* 12 *Geo. II. c.* 21, *and* 26 *Geo. II. c.* 11.

One or more ſureties.

KNOW ALL MEN by theſe preſents, that We of and of are holden and firmly bound to our Sovereign Lord George the third King of Great-Britain, France, and Ireland, *&c.* in the ſum of ſterling, to be paid to our Sovereign Lord the King, his heirs or ſucceſſors, to the which payment well and truly to be made, We do bind us, and either, and every of us, by himſelf jointly and ſeverally, for the whole and in the whole, our and every of our heirs, executors, and adminiſtrators, firmly by theſe preſents. Sealed with our ſeals and dated this day of in the year of our Lord God 1775.

Treble the value.

THE CONDITION of this obligation is ſuch, that whereas the above bounden hath the day of the date hereof, tendered an entry in his Majeſty's port of Dublin of packs of No. to containing great ſtones, to be tranſported to the port of in the kingdom of Great-Britain, in the good ſhip called the if therefore the ſaid or his aſſigns, or any of them, ſhall not carry the ſaid goods into any port beyond the ſeas, but ſhall duly and truly export and carry all the ſaid goods by the ſaid veſſel to the ſaid port

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port of in the kingdom of Great-Britain, and ſhall there unlade and put on ſhore the ſame, and pay the cuſtom and duties thereof (the danger of the ſeas only excepted) and withal bring a true certificate in paper (not in parchment) of his having ſo done, under the hands and ſeal of office, of three at the leaſt of his Majeſty's officers of the cuſtoms where he ſhall ſo land the ſame, as aforeſaid, within four months next enſuing the date hereof, whereby it may appear that all the ſaid goods were there landed and put on ſhore. And alſo if the ſaid his ſervants, factors, or aſſigns, ſhall deliver or cauſe to be delivered to the hands of the officers of the cuſtoms in ſuch of the aforeſaid ports in Great-Britain or Wales, where the ſaid goods ſhall arrive and be diſcharged, the true cocket which he, they, or any of them, had from the officers of the ſaid port of Dublin, before the ſaid

Other ports may be named (if intended) within the ſaid kingdom.

If it be ſo.

ſhall demand or receive any certificate from the ſaid officers in Great-Britain of the diſcharge of the ſaid goods there, whereby it may plainly appear to thoſe officers that the whole quantity of goods are landed there accordingly, before they ſhall make or give any ſuch certificate therein. Then this obligation to be void, or elſe ſtand in full force.

Signed, ſealed, and delivered
in the preſence of

Ship Licence *for exporting* Wool, *&c. in a particular Veſſel to a particular Port or Ports.*

No. III.

IN purſuance of an act of parliament made in the tenth and eleventh years of the reign of King William, entitled, " An act to prevent the exportation of wool out of the kingdoms of England and Ireland into foreign parts, and for the encouragement of woollen manufactures in the kingdom of England ;" and of another act made in the twenty-ſixth year of the reign of King George the ſecond, entitled, " An act for permitting the exportation of wool and woollen or bag yarn from any port in Ireland to any port in Great-Britain, I collector of the port of do hereby certify that of hath given me notice of his intention of lading at the port of Dublin in the kingdom of Ireland, packs, quantity weight of bag yarn, marked and numbered as in the margin, on board the ſhip of whereof is maſter, to be imported into the port of and hath here given ſecurity according to the ſaid acts for the landing thereof accordingly ; the danger of the ſeas excepted. And he the ſaid is hereby licenſed to lade and import the ſame according to the ſaid acts. Witneſs my hand and ſeal of office the day of 1775 *.

Lading. Here the mark or marks to be

H—— H——, Collector.

* The perſons concerned in taking out this licence are to take notice, that if the goods are not landed at the port the licence ſpecifies, they will be ſeized. and the bond put in ſuit ; and that if the ſaid perſons do not take care to diſcharge the bonds given by them, in twelve months from the date of their reſpective bonds and licence, the ſame will be put in ſuit, and be ſent to the ſolicitor for that purpoſe.

A Licence

A Licence *by the Lord Lieutenant for the exportation of* Wool.

The Lord Lieutenant General and General Governor of Ireland.

HARCOURT,

No. III.

UPON humble ſuit made unto Us by A. B. of Dublin, merchant, We have been pleaſed to licenſe him to tranſport unto Great-Britain the number of one thouſand *great* ſtones of wool, woollen or bag yarn at *ſix ſcore to the hundred* *. THESE are therefore to will and require you and every of you to permit and ſuffer the ſaid A. B. to put on board and tranſport the ſaid quantity of wool, woollen or bag yarn, out of your port; PROVIDED this our licence be firſt entered with the Accountant general at Dublin, and that you make entry of the ſaid one thouſand great ſtones of wool, woollen or bag yarn in your cuſtom books, and likewiſe take him the ſaid A. B. bound in good bonds with ſufficient ſecurity to his Majeſty's uſe, £20. in double the value of the ſaid wool, woollen or bag yarn ſo to be exported, after the rate of twelve ſhillings per ſtone; not to tranſport the ſame into any foreign ports, but only to ſome port in Great-Britain, and there to land the ſame, and thereof within ſix months after the entry outwards of the ſaid wool, woollen or bag yarn to return a certificate unto you, ſigned by the cuſtomer, collector, comptroller, and ſearcher, and ſealed with the ſeals of office of ſuch of the ſaid ports as in the cocket given by

* Note, this is what is called a *full* licence, and more has not been uſually in one licence; and note alſo, the *great* ſtone conſiſts of 18 pounds.

you

No. III.

you for the tranſport thereof is mentioned; in which certificate the quantity of the wool, woollen or bag yarn, the name of the maſter and veſſel wherein the ſame was tranſported, as alſo the perſon or perſons to whom the ſaid wool, woollen or bag yarn, upon or after landing thereof, is ſold or delivered, are particularly to be expreſſed. And the ſaid A. B. is to tranſport the ſaid wool, woollen or bag yarn, within three months next enſuing the date hereof, otherwiſe this our licence to be void; whereof you may not fail, and for ſo doing this ſhall be your warrant. GIVEN at his Majeſty's caſtle of Dublin the 26th day of October, 1774.

By his Excellency's command,

W. ROSEINGRAVE.

To the cuſtomer and collector of
his Majeſty's port of Dublin,
and to all other his Majeſty's
officers in the ſaid port, whom
it doth or may concern.

Ent.
W. WETHERALL, dep. comp. Acct. gen.

A Certificate

A Certificate *from the Port in* England *where the* Wool, *&c. was landed, of the landing thereof, in order to have the bond given in* Ireland *for that purpoſe cancelled.* No. III.

KNOW YE, that
hath landed in this port out of the ſhip
of I. B. maſter, from Dublin, packs,
containing and
of as appears by the endorſed particulars which came by cocket from thence; dated the
day of mentioning
containing
of for which a licence was
granted at the day of
the ſaid goods were conſigned to
and delivered by T. P. land waiter
certified the day of

H. H. collector.
L. S. dep. cuſtomer.
R. H. comptroller.
J. K. ſurveyor.
A. W. dep. ſurveyor.
T. P. land waiter.

No. 4.

No. 4.

Of the DOWN and other SURVEYS.

Frequent mention having been made of the DOWN ſurvey, it will be neceſſary to take ſome notice of that and the other ſurveys upon which moſt of the forfeited and other lands in this kingdom were granted.

No. IV.

Strafford's ſurvey.

THE firſt ſurvey was that called Strafford's ſurvey, which was taken in or about the year 1639, and by it all the counties of Conaught and Clare, and ſeveral tracts of land in the counties of Tipperary and Limerick were ſurveyed. This ſurvey was in conſequence of a project of the earl of Strafford to entitle the King to all thoſe lands, as having by ſeveral means, as it was alleged, devolved on the Crown; ſome of theſe lands having formerly belonged to the earldom of Ulſter, and devolved on the Crown in right of Lionel duke of Clarence, who married the heireſs of that family, and whoſe heirs had been ever ſince Kings and Queens of England; others of them having been granted by the Crown to ſeveral of the antient Engliſh, in tail; upon failure of iſſue in whom, they ought to

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to have returned to the Crown; and others having come to the Crown by the ſtatute of abſentees, or by old attainders, upon all which lands the Iriſh had intruded, and continued their poſſeſſions without any grant from the Crown; the lords of Clanrickard and Thomond, and other great men only knowing the defects of their titles, took out patents under certain rents and reſervations from the Crown; now, lord Strafford intending to make theſe large tracts of ground Engliſh plantations, had all theſe lands ſurveyed, and the nature and quality of theſe lands deſcribed, as alſo the names of the ſeveral proprietors or reputed proprietors returned; after this, the King was prevailed upon, upon compenſations, to grant patents upon theſe defective titles, to the former proprietors, which brought in great ſums of money to the miniſters and officers of thoſe times, but little profit to the King; and theſe patents and defective titles were afterwards confirmed, by two ſeveral acts of parliament in this kingdom.

Civil ſurvey.

After the reduction of Ireland, a ſurvey was taken to inform the then powers, what eſtates belonged to proteſtants, and what to papiſts, and to aſcertain the proprietors and forfeiting perſons, and this was called the civil ſurvey, it having been taken by the direction of the civil and not of the military powers; the then lords juſtices having iſſued two commiſſions for that purpoſe, dated 23d of December and 8th of January, 1642; and this ſurvey was called an eſtimate ſurvey, having been taken by inquiſition on the reputation of the country, and not by chain and ſcale, and therefore was by no means exact as to the number of acres, though it was pretty much ſo as to the proprietors, wherefore it was looked upon as good evidence, where the property in

No. IV.

1641 came in diſpute, either in the court of claims, or courts at law.

Down ſurvey.

After this, when the adventurers and ſoldiers to whom the forfeited lands had been ſet out, came over to this kingdom, they would not be ſatisfied with, nor be concluded by the civil ſurvey; whereupon doctor Petty, afterwards ſir William Petty, being a learned mathematician, undertook to ſurvey the whole kingdom for a certain conſideration, which was made an acreable charge throughout the kingdom, by an ordinance of parliament. This was taken in the year 1653, and was called the *Down ſurvey*, being laid down by chain and ſcale, to diſtinguiſh it from the eſtimate or civil ſurvey; and by this ſurvey the lands were given out to ſoldiers and adventurers; as by Strafford's ſurvey, the lands where Strafford's ſurvey went, were given out to the tranſplanters, and likewiſe to ſoldiers and adventurers; for the Down ſurvey did not go where Strafford's went.

Lands given out by commiſſioners of claims by the two laſt.

And the two laſt mentioned ſurveys were the rules by which the commiſſioners of the court of claims went in confirming and giving out lands. And the quit rents were aſcertained by thoſe ſurveys reduced to Engliſh meaſure.

Down ſurvey where concluſive evidence.

And the Down ſurvey and the maps of it are concluſive in deſcribing the bounds between the * *new intereſts*. And although a denomination ſhould in reality contain double the number of acres returned by their ſurveys, yet it ſhall conclude the king and all parties, as to the quantum of the acres, and ſhall be a beneficial ſurvey to

* The adventurers, ſoldiers and tranſplanters are called the new intereſt; the proteſtant proprietors, the church, and the innocent papiſts, the old intereſt.

the

No. IV.

Beneficial ſurvey, what.

the party to whom diſtributed or granted. But it has been holden, that as to the aſcertaining bounds between the *old intereſts* and *new intereſts*, the maps of the Down ſurvey are not concluſive, except poſſeſſion has gone accordingly.

References to the down ſurvey.

And on the left hand ſide of the original book of the Down ſurvey, is the map, and on the right hand ſide, oppoſite to each map, are the references explaining the map; which references were made at the time of the ſurvey by ſir William Petty, and are certified by him at the beginning of the book, 20 June 1657. And they are allowed as * evidence, being part of the ſurvey.

Diſtribution books, what.

And of thoſe ſeveral ſurveys, abſtracts were taken, which were divided into counties, and bound up in ſeveral large folio volumes, and called the † *Diſtribution books*, all which are in the Auditor general's office, and copies thereof are in the quit rent office; and the original maps, or ſuch of them as eſcaped the flames at the time the council office and other offices in Eſſex-ſtreet were ‡ burnt, are in the ſurveyor general's office; and from theſe || books the Auditor general at times hath in a great meaſure formed his *conſtats* of charges of rents which iſſue

* So determined in the caſe of the leſſee of Rolleſton v. O'Brien in C. B. Trin. 1735.

† The letters C. S. in the diſtribution book ſignify the civil ſurvey; lord Strafford's ſurvey have figures in the firſt column; the Down ſurvey has neither figures nor marks.

‡ It is ſaid that the earl of Bective has duplicates of all thoſe maps, his anceſtors having kept the office.

|| Yet thoſe books are not received as evidence in a court of juſtice, being but abſtracts of the aforeſaid ſurveys, ſo determined in the court of Exchequer, in the caſe of King v. Daly, 12 Dec. 1747.

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from his office; and hath thereon alſo founded his reports on references from the court of Exchequer *.

Matters contained in them.

Thoſe diſtribution books contain ſeveral columns, one ſide of it is the ſurvey, and contains firſt, the figures pointing out the numbers in the plots in the maps; but this is only in lord Strafford's ſurvey. Secondly, the forfeiting perſons before 1641. Thirdly, the denomination of land forfeited. Fourthly, the profitable land. Fifthly, the unprofitable land. The other ſide is the diſtribution; and contains Firſt, the number of acres diſtributed. Secondly, to whom. Thirdly, whether by decree, by certificate or patent. Fourthly, the preſent proprietor.

An Account of the MAPS of the DOWN SURVEY of the ſeveral counties in Ireland now in the SURVEYOR GENERAL'S office.

ANTRIM, one book entire, and ſome partly burnt.
ARMAGH, ditto.
CARLOW, entire.
CAVAN, a few partly burnt maps remaining.
CLARE, all burnt.
CORKE, one entire book, and a few partly burnt maps.
DONEGALL, entire.
DOWN, one entire book, and a few partly burnt maps.

* He hath in his office all the ancient rent-rolls of the Crown; as he alſo hath, (or there ſhould be in his office) tranſcripts from the roll's office of all grants of lands, &c. where rents are reſerved to the Crown, which tranſcripts have been always entered in books, which books I have ſeen admitted as evidence in the court of Exchequer, on a clerk's proving them to be the office books; as alſo of all certificates, decrees of innocence, &c. under the acts of ſettlement and explanation, and of the maps of the Crown lands, all which are according to the circumſtances, the ſure foundations for his conſtats. The diſtribution books may be auxiliary.

DUBLIN,

No IV.

DUBLIN, one book of maps entire, and ſeveral deſtroyed.
EAST MEATH one book entire, and a few partly burnt maps.
FERMANAGH, a few partly burnt maps remaining.
GALWAY, all burnt.
KERRY, ditto.
KILDARE, a few partly burnt maps remaining.
KILKENNY, one book entire, and a few partly burnt maps.
KING's COUNTY, ditto.
LEITRIM, all the maps entire.
LIMERICK, one book entire, with a few partly burnt maps.
LONDONDERRY, entire.
LONGFORD, one book entire, with a few partly burnt maps.
LOWTH, a few partly burnt maps remaining.
MAYO, ditto.
MEATM, ſee before Eaſt Meath.
MONAGHAN, a few partly burnt maps remaining.
QUEEN's COUNTY, one book entire, with a few partly burnt maps.
ROSCOMMON, all burnt.
SLIGO, a few partly burnt maps remaining.
TIPPERARY, one book entire and a few partly burnt maps.
TYRONE, entire.
WATERFORD, ditto.
WESTMEATH, ditto.
WEXFORD,
WICKLOW, ditto.

Note, it is ſaid, no maps were made of the Stafford or the civil ſurvey, or if any were made, that they were deſtroyed when the council office was burnt, the ſurveyor general's office having been in the ſame houſe.

No. 5.

No. 5.

The MATERIALS to be ſought for, on any queſtion about lands forfeited on the rebellion in 1641 or 1688.

No. V. Outlawries and inquiſitions.

FOR a forfeiture in 1641, it will be neceſſary, firſt, to ſearch for the outlawries or attainders in the King's-bench office, and the inquiſitions, ſome of them in the roll's office and ſome in the Auditor general's office; there are alſo tranſcripts of ſome of them in the ſecond remembrancer's office, and many of them were burnt, at the time the Surveyor general's office was burnt.

The civil ſurvey and diſtribution book.

2d, To examine carefully the civil ſurvey and diſtribution books in the auditor's office.

The quit rent roll.

3d, The quit rent roll, ſettled by the truſtees, and ſigned and ſealed by them, in the Auditor general's office; in this are, all the quit rents and the rents of innocent papiſts; and one of theſe rolls is for each county, and copies of them are in the quit rent office, in diſtinct books; and in the margin of theſe rolls in the auditor's office, it is mentioned what arrear the perſon charged with the rent was to pay, at the time of the charge; for by

No. V.

by a proclamation at King William's acceſſion, all arrears of the 1641 quit rents due by papiſts, were remitted to the year 1688, and of proteſtants to Michaelmas 1691, and to be charged only from theſe reſpective times.

And in this rent roll are the ſeveral following writings, which by length of time, and want of proper care, are greatly obliterated, and in many places ſcarce legible.

By his Majeſty's commiſſioners appointed for executing the acts of ſettlement and explanation.

A ſchedule, or liſt of lands, tenements or hereditaments, formerly ſeized, ſequeſtered or ſet out, by reaſon of or upon account of the late rebellion or war, which begun or broke out in this kingdom of Ireland, upon the 23d of October 1641, and which have been ſince reſtored, by his Majeſty's late commiſſioners appointed for putting in execution an act, entitled an act for the better execution of his Majeſty's gracious declaration for the ſettlement of this kingdom of Ireland, and ſatisfaction of the ſeveral intereſts of adventurers, ſoldiers and other his Majeſty's ſubjects there, and perſons of the Roman catholick profeſſion, by virtue of decrees confirmed by an act, entitled an act for explaining ſome doubts ariſing upon an act, entitled an act for the better execution of his Majeſty's gracious declaration for the ſettlement of his kingdom of Ireland, and ſatisfaction of the ſeveral intereſts of adventurers, ſoldiers and others his ſubjects there, and for making ſome alterations of and additions unto the ſaid act, for the more ſpeedy and effectual ſettlement of the ſaid kingdom, and for ſo much as is ſtill in force and remains to be executed, of another act, entitled an act for the better execution of his Majeſty's gracious declaration for the better ſettlement of

No. V.

of his kingdom of Ireland, and ſatisfaction of ſeveral intereſts of adventurers, ſoldiers and other his ſubjects there, together with the lands thereof, acres both plantation and Engliſh.

At the end of each province, there is a memorandum in theſe words, *memorandum*, all the aforeſaid lands do lie in the province of and the yearly quit rent payable to his Majeſty, his heirs and ſucceſſors, out of every reſpective denomination in this province, is for every Engliſh acre, according to the number of Engliſh acres affixed to the ſeveral denominations.

And then there is a memorandum at the end of the roll, in theſe words;

Memorandum, ſuch of the aforeſaid lands, tenements and hereditaments, for which any of ſaid Roman catholick proprietors are left to law, are by virtue hereof to be charged with the ſaid quit rent to his Majeſty, only during the time the ſaid lands ſhall be enjoyed and poſſeſſed by the ſaid proprietor, his heirs and aſſigns; and ſuch of the ſaid lands, tenements and hereditaments, as are decreed in mortgage, of which the fee is ſince paſſed by his Majeſty's commiſſioners for executing the act of explanation, to any perſon, under the ſame full quit rents to his Majeſty, which hereby are charged upon the ſaid lands, are hereby to be charged, only during the continuance of ſaid mortgage; and where only the right of redemption of any lands is decreed to any innocent papiſt, in this caſe the ſaid lands are only hereby to be charged with the quit rent to his Majeſty, after the redemption of the ſaid mortgage, and where any lands have been decreed to any perſon for life, or for years, or for payment of portions,

No. V.

portions, the ſaid lands are hereby to be charged, only during the continuance of the eſtate or intereſt ſo decreed, and where any lands have been decreed in reverſion or remainder, the ſaid lands ſhall not hereby be charged, until the ſaid remainder or reverſion ſhall fall.

Memorandum alſo, that whereas divers other lands and tenements, herein charged with quit rent to his Majeſty, have been or are like to be ſet out by us to ſeveral adventurers, ſoldiers and others, by certificates under our hands and ſeals, wherein the full quit rent is likewiſe taxed and reſerved to his Majeſty, it is hereby declared that it is not the intention hereof, that the ſaid lands ſhall be doubly charged at the ſame time, but that the ſaid denominations ſhall anſwer and pay to his Majeſty, the full quit rent payable by the acts, according to the ſeveral and reſpective provinces where the lands lie, and no more for any one year, the ſaid yearly quit rents, to be paid by the poſſeſſors and perſons out of the profits of the ſaid lands for the time being ſucceſſively, according to the reſpective intereſts. Provided always, that where any of the above mentioned lands, tenements and hereditaments, charged with the yearly quit rents as above is mentioned, did in the year 1641, pay unto his Majeſty a greater quit rent than they are hereby charged with, in that caſe the ſaid ancient and higher quit rent, ſtill due and payable to his Majeſty, his heirs and ſucceſſors, ſhall be of the quit rent hereby charged or chargeable out of the lands, tenements or hereditaments, for ſo much.

Edward Smyth's ſeal, Edward Deering's ſeal, Brodrick's ſeal.

No. V.

4th, The certificates and decrees of the courts of claims; the originals of theſe are all in the rolls office, and they are alſo inrolled in the chief remembrancer's office, and duplicates of them all were in the Auditor general's office, and there is an alphabæt there of theſe certificates, but ſeveral of them were burnt at the time the Surveyor general's office and council chamber were burnt *.

5th, The Connaught certificates as they are called, being the decrees of perſons who were tranſplanted to Connaught; all which are in the chief remembrancer's office, and tranſcripts of them all (except a few that were burnt) in the Auditor general's office.

6th, The acts of ſettlement and explanation, moſt carefully.

7th, Patents and grants of lands in the rolls office, and tranſcripts of them in the ſecond remembrancer's office, and alſo in the auditor's office, except ſome that were burnt; but eſpecial care is to be taken to ſearch for the certificates and decrees, as they are at this day evidence of the King's title, which patents are not, for they in many caſes were granted in order to fiſh for lands as it is called, where patents are founded on certificates, it is ſo recited in the grant.

8th, Proceedings on the articles of peace in 1646, and 1648; for ſeveral perſons choſe to reſort to thoſe who

* I am much inclined to believe that many of the records and papers of theſe offices might yet be found, if proper ſearch were made for them. I have heard that amidſt the confuſion of the ſaid fire, ſeveral of them were brought to garrets in ſome of the offices in the caſtle, and ſome to Birmingham tower.

had

had ſubmitted without apoſtacy, and ſued out decrees for their lands, and if they had been granted to adventurers, tranſplanters or ſoldiers, they were to be reprized. See the act of ſettlement.

9th, To conſider carefully if the lands belonged to an innocent proteſtant or papiſt, the lands of the firſt are exempted from quit rent by the act of explanation, p. 515, the latter by the ſame clauſe are liable, as being reſtored, for though by act of ſettlement, p. 358, 859, old edit. the lands of both innocent proteſtants and innocent papiſts, are exempted from being veſted in his Majeſty, yet if the eſtates of innocent papiſts were ever ſeized and reſtored, they are by this clauſe liable to quit rent, it will appear by the diſtribution book whether the lands belong or not to an innocent proteſtant or papiſt, ſee an order of the Exchequer Mich. 1670. and ſee v. 1. 225 to 228.

10th, Orders of the Exchequer and affidavits; theſe are in the ſecond remembrancer's office.

11th, The liſt of arrears; if the lands are in charge, but have been long in arrear, it ſhould be ſeen when default of payment was firſt made, and the collector's reaſons for not levying it; theſe are in the auditor's office and quit rent office *.

12th, If the lands be returned by the collector not to be found, it ſhould be ſeen by the liſt of arrears, how long it has been ſo, perhaps they are placed by the rent roll in the wrong barony, examine the maps in the Surveyor general's office, ſir William Petty's publick

* Note, the books, &c. in this office are not admitted as evidence, being but copies from the auditor's office. See vol. I. 57, 58.

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printed maps of Ireland, and the diſtribution book ſhould be examined. It will be alſo very requiſite often, if any payments were ever made, to ſee in the liſt of arrears, when the laſt payment was made; and to ſearch about that time in the twopenny book, in the auditor's office, which is yearly lodged there by the collectors of the reſpective diſtricts, purſuant to the ſtatute 9 Will. III.

Note, if the lands to be diſcovered were mortgaged, it is to be conſidered, that the redemption of all mortgages, judgments and ſtatutes ſtaple, by the act of ſettlement and explanation, are to be a fund to ſatisfy the officers who ſerved before the 5th of June 1649.

The requiſites to be ſearched for on a forfeiture in 1688.

For a forfeiture in 1688, it will be neceſſary, firſt, to ſearch for the outlawries or attainders in the King's-bench office *, and the inquiſitions thereon; ſome of the latter are in the rolls office, ſome in the chief remembrancer's office, ſome in the Auditor general's office, and tranſcripts of ſeveral of them from the rolls office, are in the ſecond remembrancer's office, and many of them it is ſaid were burnt at the time the Surveyor general's office in Eſſex-ſtreet was burnt, and there are a few in the forfeiture office, which were produced in evidence before the truſtees for the 1688 forfeitures, and have remained there ever ſince.

2d, To peruſe carefully the ſtatute of the 11th and 12th William III. Eng. for granting an aid to his Majeſty, by ſale of the forfeited and other eſtates and intereſts in Ireland. And alſo the clauſe declaring all grants, *&c.* of of any of the ſaid lands ſince 1648, null and void; note

* Theſe are kept in an iron cheſt, as are thoſe on the rebellion in 1649, and the King's attorney or perſons appointedby him only can reſort to them, as is moſt fit.

perſons

perſons concerned in this rebellion are by ſect. 23. to be convicted and attainted, before Trinity term 1701. No. V.

3dly, The book of poſting and ſales of the forfeited eſtates in Ireland: in this are contained the proceedings on the £.21,000 allowed by the aforeſaid ſtatute 11 and 12 Will. III to ſuch purchaſers as after the 13th day of February, 1688, purchaſed the inheritance of any part of the ſaid forfeited or forfeitable eſtates, to be diſtributed in equal proportions, according to the ſums actually paid by them who ſhould prove ſuch payment before the 10th of Auguſt, 1700. This book is in the forfeiture office in the cuſtom-houſe.

4thly, To peruſe alſo the book of the 13 years purchaſers, purſuant to ſtatute 1 Ann, c. 32. Eng. entitled, an act for the relief of the proteſtant purchaſers of the forfeited eſtates in Ireland, by which, the purchaſers under the grantees of any forfeited eſtates in Ireland, to whom the ſaid ſum of £.21,000 was adjudged by the ſaid truſtees, purſuant to the ſaid ſtatute 11 and 12 Will. III. were to enjoy the hereditaments conveyed to them, paying to the truſtees, *&c.* 13 years purchaſe for an eſtate in fee ſimple, in reverſion or remainder, after an eſtate for life in poſſeſſion, and ſo in proportion (according to common rules of purchaſe) for lower intereſts, according to the rents as they were let in 1701, crown rents, compoſition rents, and quit rents firſt deducted.

And note, that all the proceedings on the ſale of the ſaid forfeited eſtates, purſuant to the ſaid before mentioned acts, are in the ſaid books of poſtings and ſales, and the book of the 13 years purchaſers, and the book of claims. And in the ſaid book of poſtings and ſales are contained;

1ſt,

No. V.

1ſt, The names of the proprietors or forfeiting perſons.
2d, The denominations.
3d, The number of acres, Iriſh meaſure, where five make about eight Engliſh.
4th, The yearly rent.
5th, The real value.
6th, The neat value to be ſet up at.
7th, The tenants names.
8th, The quality of the land.
9th, The eſtate or intereſt claimed or allowed.
10th, The purchaſers.
11th, What ſold for.
12th, Time of the ſale.
13th, How the purchaſe money was paid, whether by money, or debentures *.

And the book of the 13 years purchaſe contains;

1ſt, The late proprietor or forfeiting perſon.
2d, The perſon to whom King William granted the lands.
3d, The denominations, &c. granted.
4th, The number of acres.
5th, The purchaſe money paid to the grantee.
6th, The neat 13 years purchaſe.
7th, The allowance thereof purſuant to the ſtatute, being a proportion to each purchaſer according to the value of his purchaſe, out of the ſaid ſum of £21,000; and alſo the allowance or abatement of one third of the purchaſe money, which had been paid to the grantee purſuant to the ſtatute.
8th, The total ſum allowed.
9th, The neat purchaſe money.

* What theſe debentures were for, ſee the ſaid ſtat. 11 and 12 Will. III. c. 2. §. 52. Eng. and Robin's Abridgment thereof, 248.

10th,

10th, The ſum paid into the treaſury.
11th, The ſum paid to the truſtees or order.
12th, The yearly quit and crown rent reſerved.

The book of the liſt of claims, as they are entered with the truſtees, contains;

1ſt, The number referring to the book of poſtings and ſales
2d, The claimant.
3d, The eſtate or intereſt claimed.
4th, By what deed or writing.
5th, On what lands.
6th, The county and barony.
7th, The late proprietor.

And there is an alphabet book of the names of the forfeiting perſons, and alſo of the grantees of King William, whoſe grants were reſumed, who there appear to be but the earl of Albemarle, earl of Athlone, earl of Abercorn, and earl of Romney.

5th, To ſearch alſo in the ſaid forfeiture office, in the book which contains the firſt claims before the truſtees, and the claims on the further time given, purſuant to the ſaid ſtatute 11 and 12 Will. III. and the further time to proſecute the ſaid claims by 6 Ann. c. 34.

6th, To ſearch alſo in the book of hearings before the court of claims, and the decrees thereon, in the ſaid forfeiture office *.

* Note, the aforeſaid ſeveral books, &c. in this office, are eſteemed records, and admitted as evidence in courts of juſtice upon all queſtions relative to theſe forfeitures. See vol. I. 248, 249.

7th,

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7th, To ſearch for and peruſe the grants and patents which are in the roll's office, ſecond remembrancer's office, and auditor's office.

8th, The grants which were made by King William, and reſumed as aforeſaid, in the roll's and auditor's offices.

9th, To peruſe carefully the act of 1 and 2 Ann, Eng. for advancing the ſales of the forfeited eſtates in Ireland, and for veſting ſuch as remain unſold by the truſtees of the ſaid former act in her Majeſty, her heirs and ſucceſſors, for ſuch uſes as the ſame were before veſted in the ſaid truſtees, and for the more effectual ſelling and ſettling the ſaid eſtates to proteſtants.

And note, by this act the truſtees had a power, with the conſent of three or more of the commiſſioners of the revenue in Ireland, to apportion crown, compoſition, and quit rents, and to charge the ſame on the forfeited lands.

10th, To peruſe the book of apportionment of crown, compoſition, and quit rents, purſuant to the laſt mentioned ſtatutes; this is kept in the Auditor general's office.

11th, To ſearch the rent rolls, and liſts of arrears, as before directed, and alſo maps.

12th,

No. V.

Articles of Limerick where.

13th, To ſearch if the perſon alleged to have forfeited be not under the articles of Limerick; and for this ſearch you muſt reſort to the office of the clerk of the papers of the Houſe of Commons of Great-Britain, to whom they were returned by the commiſſioners for enquiring into the forfeitures in 1688, as appears by their report, dated the 15th day of December, 1699. It is ſaid that duplicates of all theſe proceedings were in the council office, but were deſtroyed when it was burnt *.

* But note, it is ſaid, it has been held that the claims and adjudications in the forfeiture office are not evidence that the eſtates were veſted in the truſtees for thoſe forfeitures, without producing the attainder, although it be mentioned in the adjudication.

Note alſo, a copy of the attainder is never given out; nor is any other name to be read to the court than of the perſon in queſtion, as there may be ſeveral names in the ſame writ and the return thereon; and, ſtrictly ſpeaking, the Attorney general only is the proper perſon to read whatever is neceſſary to be read. See the caſe of the Attorney general againſt Nugent, in this court, upon an information, 2d Dec. 1731.

No. 6.

A Report of ſome Determinations in this Kingdom and in Great-Britain upon the forfeited Eſtates in 1641 and 1688.

* The caſe of Devit, leſſee of Cowper, againſt the College of Dublin, in ejectment.

No. VI. The plaintiff's caſe.

THIS is an ejectment wherein James Devit declares againſt the provoſt, fellows, and ſcholars of Trinity college, on a leaſe made to him the 1ſt of May, 1704, for ſix years, by Arthur Cowper. On not guilty, verdict is given for the plaintiff. On this a bill of exceptions is entered on record, wherein they ſet forth the certificate, by which the commiſſioners for executing the act of ſettlement ſay, that it appeared to the court that thoſe lands

* This and the following caſes are in Gilbert's reports; but as that book is out of print, and his determinations are of great authority, it is hoped the inſerting them here will not be deemed improper.

were

were ſeiſed and ſequeſtered in the rebellion that broke out on the 23d of October, 1641, &c. that they were allotted to Edward Cowper; and certify their judgment to the Lord Lieutenant and Chancellor in proper form; and on this certificate a patent is made, November 19, anno 18 Car. II. to Edward Cowper and his heirs, under the rent in the certificate reſerved; and that Arthur Cowper, leſſor of the plaintiff, is ſon and heir to the ſaid Edward Cowper.

The bill of exceptions further ſaith, that it was given in evidence for the defendant, that Queen Elizabeth, by letters patent, dated the 28th of June, in the 39th year of her reign, gave thoſe lands to the provoſt, fellows, and ſcholars of Trinity college, and their ſucceſſors; and that they, the 21ſt of November, anno 40 Eliz. granted them to Maurice Fitzgerald, and his heirs, in fee farm, under the rent of 8s. and that Maurice Fitzgerald was a forfeiting perſon, *prout per inquiſitionem* ſet out.

In order to ſettle this caſe three things are to be conſidered; Firſt, the general frame of this act, and what perſons are obliged to claim in purſuance of it. Secondly, the particular conſtruction of the college-clauſe. Thirdly, the conſequence to the titles of Ireland if claims ſhould be allowed that are not ſaved in the certificates.

Three things to be conſidered;

Firſt, Of the general frame of the act, and what perſons are obliged to claim by it. By this ſtatute all the lands that were in ſeizin and ſequeſtration were veſted and ſettled in the King without office or inquiſition. But this was not for the King's mere uſe and benefit; but the King was in nature of a royal truſtee for anſwering the ſeveral uſes and intents of the act. And this was in pur-

1ſt, The general frame of the act.

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ſuance of the 17 Car. I. c. 34. in which ſeveral lands were to be ſet out to ſuch adventurers as ſhould advance money for the reduction of Ireland.

The lands veſted in the King were to be diveſted by the claims of the ſeveral parties in intereſt; and theſe perſons were, by the act of parliament, to make their claims by a certain time appointed. The words are, "That all per-"ſons and bodies politick and corporate who have not "already put in their claims before the commiſſioners, do "put in their claims within the ſpace of 30 days immedi-"ately after the proclamation made by the chief governor; "which proclamation was not to be made till the commiſ-"ſioners for executing the acts ſhould arrive at Dublin, "and ſhould have met for the execution of the commiſ-"ſion, but as ſoon after as might conveniently be. And "that after the ſaid time ſhould be expired, no claim "ſhould be received; but the party left without remedy "and debarred for ever."

Three ſorts of perſons particularly concerned in the act.

Now there are three ſorts of perſons particularly concerned in this act.

Firſt, The ſoldiers and the adventurers.

Secondly, The innocents that were to be reſtored.

Thirdly, The ſeveral perſons and bodies politick mentioned in the act by name.

1ſt, The ſoldier and adventurer,

Firſt, The ſoldier and adventurer; and theſe are entitled not only in purſuance of the 17 Car. I. c. 34. but likewiſe by the King's royal declaration, which is incorporated into this act, and ſays, that the lands and tenements which the adventurers and ſoldiers poſſeſſed the 7th of May, 1659, ſhould be confirmed and made good to them; but

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but thoſe perſons no doubt were obliged to claim, in order to diveſt the lands which by the veſting clauſe were in the King.

theſe by the act are obliged to claim.

This is plain from the two clauſes of making out certificates; for by theſe the commiſſioners were impowered to make out their certificate according to every man's intereſt; and on ſuch certificate the chief governors, with the advice of the council, were to order letters patent under the great ſeal. So that the adventurer and ſoldier being to begin a title from the King, he was to make out his right before the commiſſioners, and the patent was to be granted not in the uſual way where the patents are *ex gratia* by letters from the King, and *fiat* to the Lord Chancellor, but theſe patents were *ex debito juſticiæ*, and founded only on the certificate of the commiſſioners without any order from the King.

Secondly, The innocents that were to be reſtored. Theſe come under the diveſting clauſe, which immediately follows after the veſting clauſe in the King. The words of the proviſo are, "That the act ſhould not veſt or be conſtrued to veſt the lands of innocent proteſtants or innocent papiſts, their innocent heirs, executors, or adminiſtrators."

2dly, The innocents that were to be reſtored.

Now theſe likewiſe were obliged to claim in purſuance of the act, becauſe they were obliged to make out the qualification of innocence; but when they had made that appear they were not enforced to take out any new patents; becauſe they were not to begin any new title from the King, but remitted to their old title to ſuch lands as they claimed; and the lands came out of the Crown, not by any

Theſe likewiſe by the act were obliged to claim.

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any patent or new grant, but by the diveſting clauſe in the act of parliament.

But then the adventurer and ſoldier were to be reprized wherever ſuch innocent was to be reſtored; and the words are, "That he ſhall be forthwith repriſed." So that the repriſal was to go, *pari paſſu*, with the reſtitution. This appears by the enacting clauſe immediately following the diveſting clauſes, and alſo by another clauſe in the inſtruction.

3dly. The ſeveral perſons and bodies politick named in the act. Several ſorts of theſe.

Thirdly, The ſeveral perſons and bodies politick mentioned by name in the act. Theſe are of ſeveral ſorts; ſome that were reſtored to their old eſtates; others that obtained new ones.

1ſt, Perſons reſtored to their old eſtates, theſe not obliged to claim.

Firſt, Thoſe that were reſtored to their old eſtates; and thoſe by the firſt act were not obliged to claim; becauſe they were not obliged to make out their innocence, ſince they were declared innocent by act of parliament; nor were they obliged to make out any title to their eſtates, becauſe they claimed by their old title, to which they were remitted; and not by any new grant from the King. And ſuch were the archbiſhop, biſhop, deans, duke of Ormond, and others.

Except papiſts reſtored by name who entered into more lands than they were entitled to.

But here a diſtinction was made; for lord Clanrickard and ſeveral other papiſts reſtored by name in the act of parliament entered into more lands than they were entitled to; and therefore ſuch perſons, claiming under ſuch clauſes, were by the act of explanation, to make out their title to the ſeveral parcels of lands, they claimed before the commiſſioners for the executing of the act, within ſuch time as ſhould be by them limited, or in default thereof

thereof to forfeit two years value of the lands in their poſſeſſions reſpectively. No. VI.

Secondly, As to thoſe particularly named in the act, they were to begin new titles; their clauſes are in confirmation of letters patent granted from the King, and then the particulars of the eſtate granted appeared in the patent, as in ſir George Lane's clauſe; or elſe the particulars of the lands were mentioned in the act of parliament, as in ſir Robert Southwell's clauſe; and in theſe caſes there was no occaſion to claim, becauſe they had title by letters patent or by the act itſelf.

2d, nominees or perſons particularly named in the act, who need not claim.

So in the duke of York's clauſe, which veſts the lands of the regicides in the duke of York, there ſeemed reaſon to claim; and the reaſon is, becauſe by the inſtructions it appeared that thoſe lands were aſcertained by a certificate returned by the commiſſioners into the Exchequer; for it appears by the inſtructions, that the commiſſioners were to return a particular of their eſtates in the Exchequer, upon the firſt ſetting to do buſineſs; and here no repriſable perſons were in poſſeſſion, for the regicides were in poſſeſſion, who were forfeiting perſons.

In the duke of York's clauſe, no occaſion to claim.

But in all other caſes where the perſons were to begin a new title from the Crown, and there are only general words in the act of parliament, there they ought to claim, becauſe the commiſſioners are to aſcertain the particulars that are to paſs by ſuch clauſes. I cannot ſay but that if an act of parliament ſhould grant in general terms, all the eſtate of I. S. but that it would paſs by the act; yet ſuch is the wiſdom of our legiſlature, that where property is concerned, the ſtatutes do never grant eſtates and intereſts without aſcertaining them in the acts themſelves,

But claims were to be in all caſes where the perſons were to begin a new title from the Crown, and there are only general words in the act of parliament.

or

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or without ſettling ſome means whereby they may be reduced to a certainty; for ſuch act would breed confuſion inſtead of a certain diſtinction and ſettlement of property.

Adventurers and ſoldiers ouſted by their claim, to be immediately repriſed.

When thoſe perſons that were particularly named in the act entered into their ſeveral eſtates, thoſe adventurers and ſoldiers that were poſſeſſed of them and ouſted, were repriſed; and thoſe being favoured of the King, they eaſily obtained that ſuch as were ouſted by their claim, ſhould be immediately repriſed; and therefore we find that in the act of explanation thoſe who were removed from the duke of Ormond's eſtate, and afterwards repriſed in Catherlough, ſhould retain two thirds of it, as they might have had, if they had been ſo poſſeſſed the 7th of May 1659.

Stock of repriſals falling ſhort, one third retrenched.

And there were ſuch numbers of thoſe that came in on the commiſſioners ſtock of repriſals, ſo many innocents reſtored, whereby the adventurers and ſoldiers were reduced to a neceſſity of claiming repriſals, that the ſtock of repriſals fell ſhort, and therefore the ſoldier and adventurer were by the act of explanation retrenched one third of what was their real due.

Soldier and adventurer not to be removed out of what he was in poſſeſſion of, until poſſeſſed of his two thirds.

But it is the perfect model of that act of parliament, that the ſoldier and adventurer was not to be removed out of what he was in poſſeſſion of, for any reſtitution, till he was duly poſſeſſed of his two thirds; this is provided both at the beginning and ending of the act of explanation; after this retrenchment there ſeems to be room made for every body, in purſuance of the act of explanation; for by this act, if an innocent claimed more than was his due, the adventurer or ſoldier in poſſeſſion had it in his election either to give it up to the claimant, and

and have recourſe to the ſtock of repriſals, or chooſe it as lot, and try it with the claimant, who was to ſet up no title but what he had put into his claim.

Two years was thought a competent time in which all theſe matters ought to be ſettled; and therefore a clauſe was added to the act of parliament, that in caſes which ſhould happen before the commiſſioners, which were doubtful, and the act found defective, in points neceſſary for carrying on the intended final ſettlement, that the commiſſioners or any three of them might acquaint the Lord Lieutenant or chief governor or council, with their proceedings and doubts, and ſuch order for amendment, enlargement of period, explanation and direction as ſhould therein be made by the Lord Lieutenant and general governors and council ſhould be as effectual, as if the ſame had been inſerted in the act.

Two years, the time for ſettling all matters, and how and by what perſons all doubts were to be explained and ſettled.

This is the top-ſtone and finiſhing of this building, for it was apprehended by the legiſlature that ſome time ſhould be given before every man's right ſhould be ſettled and adjuſted; and the Lord Lieutenant and council were armed with a power to fix every man in his proper ſettlement, ſo that there never after be any controverſy or contention about it; and this they have done by their anſwer of reſolution of doubts, where they have ordered, that where any certificates of letters patents ſhall have been paſſed to perſons entitled, they ſhall hold and enjoy the land againſt the King, bodies politick, and all perſons whatſoever, unleſs thoſe titles are ſaved in ſuch certificate.

The power they were armed with, and the explanation of doubts.

The explanation of the words, 'where certificates ſhall be granted to perſons intitled.

Now the perſons entitled muſt be underſtood the ſoldiers and adventurers, who by the act were entitled to receive

Who underſtood by the perſons entitled.

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certificates, for otherwiſe the confirmation would be utterly inſignificant, for the conſtruction that is made by thoſe who argue for the defendants, is only that if a certificate be granted to thoſe that have right to them, they ſhall have right; whereas, the meaning of the act was, to make the certificate final to the parties, that after they had been retrenched they might never after be diſturbed in that part which they enjoyed, but ſhould the conſtruction be, that they were in all points to be entitled to the certificate, or elſe they were to be open to all other title, then it would amount to no confirmation at all, and this rule made for the final ſettlement of all adventurers and ſoldiers and their ſecurity would come to nothing.

The clauſe of proviſion for the college.

Secondly, We come now to the proviſion for the college, which in the act of explanation ſtands thus;

Sect. 108.

Provided always, and it is hereby enacted and explained, that no lands whereby the provoſt, fellows and ſcholars of the holy and undivided Trinity of Queen Elizabeth near Dublin were ſeized in fee in the year 1641, and are now in their actual poſſeſſion, nor any lands held by virtue of any grant, leaſe or fee farm, from the ſaid provoſt, fellows and ſcholars, and forfeited to his Majeſty, ſhall be diſpoſed by virtue of this or the ſaid former act, but that they and every of them remain, and be in the provoſt, fellows and ſcholars, and their ſucceſſors for ever, ſubject nevertheleſs to the payment of ſuch quit rents for the ſaid forfeited lands, as adventurers or ſoldiers by virtue of this or the former act, ought to pay, any thing in this or the ſaid former act continued to the contrary notwithſtanding.

This

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A clauſe not only of reſtitution but of augmentation.

This clauſe is not only a clauſe of reſtitution, but likewiſe of augmentation of revenue to the college; and the reaſon of augmentation at this time was, that the reſtoration had in its conſequences leſſened their income; for during the uſurped power the college had ſeveral lands given them, which belonged to the archbiſhop of Dublin, the dean and chapter of St. Patrick's and biſhop of Meath, which by the act of ſettlement were all reſtored to them again, and therefore the lands held of them in fee farm and forfeited to the King, were granted to them in compenſation, but whatever was the moving, or procuring cauſe of this grant, yet it was ſtill a new grant, and as ſuch it was to be expounded; ſo that as to the lands, which were held of them in fee farm and forfeited to the Crown, theſe were an augmentation and gift from the King, and the college was to begin a title from him, and therefore they were to be paſſed to the college by certificate and patent, and they are not immediately veſted in the college by the act till they are claimed, nor can they, as it has been argued for the defendants, be immediately executed by the act in the college, as the ſtatute which transfers uſes into poſſeſſion, and that for many reaſons.

The college muſt claim.

Reaſons.

Firſt, Becauſe there is no deſcription of the land by quantities and other convenient certainties, and therefore not being certain in themſelves, muſt be reduced to certainty by ſomebody elſe, for it can never be ſuppoſed the ſtatute intended to execute the lands, without ſetting out deſcribing the particulars of the lands that were ſo to be granted and conveyed.

Secondly, That which puts this matter out of doubt is the clauſe which obliges the college to paſs a certificate

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and patent; the words are, "That the commiſſioners "ſhall appoint books to be made of the allotments of ad- "venturers and ſoldiers, the augmentation of biſhops, and "proviſion for the college of Dublin; and on certificate "under the hands and ſeal of the commiſſioners, expreſ- "ſing the names of the perſons, with convenient deſcrip- "tions, denominations, and number of acres, that then "the Lord Lieutenant ſhall grant a patent without any "letter or warrant from the King."

By which clauſe it is plain, that the proviſions, viz. all the proviſions of the college, muſt be paſſed to them by certificate and patent, as well as the ſeveral lots of the adventurers and ſoldiers. And there was the ſame reaſon it ſhould be ſo, becauſe they were to begin a title, and the right was to paſs out of the Crown to themſelves; and if the commiſſioners were to grant a certificate, there muſt be a claim before ſuch commiſſioners, for they could not certify a right till they had notice they had ſuch a right in them.

Thirdly, There is another clauſe in the ſtatute that ſhews there was a neceſſity that they ſhould claim; and this is a clauſe that ſtands ſubſequent to the college clauſe; viz. "Provided nevertheleſs that no repriſal ſoldier, ad- "venturer, or officer, before the 5th of June, 1659, or "proteſtant purchaſer in Conaught and Clare, be removed "out of any part of the premiſſes, which they are to have "by this act, before they be repriſed for the ſame, "according to the ſaid ſtatute." And, indeed, it is the whole plan of the act of explanation, that the repriſable perſon was to be actually repriſed before he was to be removed to make room for any perſon that was to be reſtored. So that this perſon being in poſſeſſion of the lands

lands belonging to the college, was not to give up any till ſuch time as he was reſtored to other lands; and therefore the college muſt needs claim before the commiſſioners; otherwiſe, it was only keeping during the time they were to claim, and then they would ouſt the perſon in poſſeſſion without any claim at all, which is contrary to the whole deſign and tenor of the act of parliament."

Fourthly, This was the cotemporary expoſition of the act of parliament, becauſe they did actually claim in purſuance of the act, and thoſe claims have been read to the court; and theſe cannot be ſaid to be *ex abundanti cautela*, ſince the words of the law require that a certificate and patent ſhould be paſſed of them.

But thoſe who have argued for the defendants have very much relyed that ſince the words of the act are, "That no lands held by virtue of any grant, fee farm, or "leaſe, from the college, and forfeited to his Majeſty, "ſhall be diſpoſed of by virtue of theſe acts, but ſhould "be and remain to them for ever, any thing in this act "to the contrary notwithſtanding," that therefore every diſpoſition of thoſe college lands by the commiſſioners is abſolutely void; that the commiſſioners had no power to diſpoſe; that what they did was *coram non judice*; and that this clauſe is to be conſtrued as the *non obſtante* in patents, and as an exemption; and that the lands contained in this clauſe are out of the power of the commiſſioners.

It is very true, that if the commiſſioners had no power over thoſe lands by virtue of this clauſe, and that their diſpoſition was void, then no confirmation can operate to make a void clauſe good; nor would the plaintiff have been

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been within the reſolution of doubts, if what the commiſſioners had done was *coram non judice*.

Commiſſioners had power over the lands granted to the college. Reaſons.

But the commiſſioners have power over the lands granted to the college; and this appears plainly from what has been ſaid already.

Firſt, Becauſe the commiſſioners had a power to declare, whether the lands had been forfeited or not; for they were to declare whether the perſons that held of the college were innocent or not; and if this clauſe was to be conſtrued as an exception out of their power, then they could make no declaration of the nocency or innocency of the perſons holding the lands, and conſequently the college could have no title; for they derive title by the attainder or outlawry of Fitzgerald for high treaſon; for they have ſet out the inquiſition, though they ſay he is guilty *per inquiſitionem*; and the title they ſet up in the record is by the declaration of nocency by the commiſſioners, ſet forth in the plaintiff's title. So that if the declaration of the commiſſioners be void, the college can have no title; which concludes plainly, theſe lands are not out of the verge or power of the commiſſioners.

Secondly, If this was an exemption of the lands out of the power of the commiſſioners, they would have no authority to repriſe ſuch adventurers and ſoldiers as were turned out by virtue of this clauſe; and by the clauſe 884 ſuch adventurer and ſoldier was not to be removed till he was repriſed: So that to make ſuch conſtruction on this clauſe, as if it extended to exempt the lands, would be to conſtrue it in a manner that would make it inconſiſtent with that part of the act.

If

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If then the college ought to claim, then by the clauſe 542, 543, they are debarred by their own non-claim; and if the certificate was not void, but only voidable by the clauſe of the college, then by the clauſe 540, but more eſpecially by the act of reſolution of doubts, ſuch certificate is confirmed againſt all perſons and bodies politick.

College barred by non-claim.

Thirdly, There is no doubt but the reſolution of doubts confirms the certificate againſt the claim of any innocent perſon that is not expreſsly mentioned within the certificate; and the clauſe for the innocents is much ſtronger penned than that for the college; the words are, "That this act or any thing therein contained ſhall not "veſt or be underſtood or conſtrued to veſt in their Ma-"jeſties, their heirs and ſucceſſors, or otherwiſe to pre-"judice or take away any eſtate from any innocent papiſts, "their innocent heirs, executors, or adminiſtrators." And yet the confirming clauſe ſet up the certificate againſt their title, if they be not expreſsly mentioned in ſuch certificates.

Certificates confirmed againſt the claim of innocent perſons by the reſolution of doubts.

Now the words of the innocent clauſe, "that they "ſhall not veſt," are much ſtronger than the words in the college clauſe, "that they ſhall not be diſpoſed of." The innocents is a clauſe of reſtitution to the land, to which the King had no title by forfeiture; the college clauſe is a new grant of lands under a forfeiture; and therefore, by the reſolution of doubts, the perſon that claims by certificate is to hold againſt the title of the college, where it is mentioned in the certificate.

Innocents clauſe a clauſe of reſtitution.

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Bad conſequences of adjudging the certificate void.

But to conſider the conſequences of this doctrine, if this certificate ſhould be adjudged void; and theſe are twofold. Firſt, that the adventurer and ſoldier would be perfectly ſtripped of his inheritance, becauſe he could not be repriſed; which were to deſtroy the title of a perſon who was a purchaſer for valuable conſiderations under ſeveral acts of parliament, where by thoſe acts he was intitled to relief; and where he had likewiſe paid an half year's rent for the King's royal bounty, which went towards the charges of the act, and likewiſe one penny per acre to the commiſſioners and ſub-commiſſioners, for ſettling the act; and was likewiſe retrenched by the act of explanation one third of his real due, and by the terms of that act, was not to be removed till he was repriſed; now if after all, this conſtruction of the defendant's were to take place, after all theſe payments and deductions, he would be turned out without any ſatisfaction at all; whereas the college only ſuffers by their own laches and negligence where they ought to claim.

Secondly, The laſt and moſt terrible conſequence of all, if this certificate ſhould be adjudged void, is, that it would introduce an uncertainty of property through the whole kingdom. That which is the preſent happineſs of the kingdom of Ireland is, that after all the revolutions and changes which have been in their property, they are now come to ſo firm and laſting a foundation, that it is to be hoped will never be ſhaken; and the very baſis of this eſtabliſhment is this certificate and patent. This is the beginning of every man's title; men have no deeds or evidences higher, to ſhew whoſe eſtate it was before the date of the certificate.

I take

I take it therefore that theſe laws of ſettlement and explanation are to be conſtrued, according to the intent of the legiſlature, for the quiet of the kingdom; and always liberally to be expounded to the ſettlement of perſons intereſted; and it will be a very dangerous thing to the peace of the kingdom, if the certificate and patent ſhould in any caſe whatſoever be conſtrued to be *coram non judice*.

I ſhould have all manner of tenderneſs for the rights of the college; they are nurſeries of religion and learning, and therefore all donations for increaſe and augmentation of their revenue are to be liberally expounded. But I dare not make ſuch an expoſition in behalf of the college, as would let in a general uncertainty into the property of the whole kingdom; and if I ſhould adjudge the certificate and patent to be void, I don't know what would be the conſequence of ſuch a judgment; how many other certificates and patents may be contrary to the direction of the act is what no man living can foreſee. If any perſon ſhould meet with ſucceſs on ſuch a queſtion as this, and receive a judgment in his favour, that a certificate and a patent are void, it would beget infinite queſtions on other certificates and patents, and ſo by degrees the whole act of parliament would be unravelled. On ſtatutes that are made for quieting the kingdom, ſuch reſolutions are to be made as tend to the peace of the nation, and 'tis better the non-claimant ſhould loſe the right he would have had, if he had claimed, than a general uncertainty ſhould have been made in property, by the negligence and laches of thoſe who had not claimed.

It is a general rule of judgment that a miſchief ſhould rather be admitted than an inconvenience; it is only a

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miſchief to the defendants, if their right be barred by their own laches in not claiming; but it will be an inconvenience to the whole kingdom, if the certificates and patents (under which the titles, purchaſes and ſettlements of this kingdom ſhould ſtand) ſhall be adjudged void, and *coram non judice*. Wherefore I think judgment ſhould be given for the plaintiff.

The CASE of KELLET againſt CARTHYMORE;

On the acts of ſettlement and explanation.

The caſe.

William Kellet brings an ejectment on the demiſe of Philip Savage, Thomas Maule and John Kidmore, againſt Honora M'Cartymore, of the lands in the declaration. On not guilty, the jury find a ſpecial verdict; that the plaintiff claims by letters patent from the Crown; and that Daniel M'Carthymore, on the 22d of Auguſt 1641, was ſeiſed in fee of the premiſſes; and that he afterwards, viz. the 14th of Auguſt 1647, by indenture of feoffment, conveyed the premiſſes (*inter alia*) to the marquiſs of Antrim and Alexander M'Donnel and their heirs, to the uſe of the ſaid M'Carthymore and dame Sarah his wife, and the longer liver of them, and after their deceaſe, as to one moiety of the premiſſes, to the uſe of the heirs male of the ſaid Sarah, by the ſaid Daniel M'Carthymore, and as to the other moiety, to the uſe of the ſaid Sarah and her heirs. They further find that the premiſſes were ſeiſed and ſequeſtered the 1ſt of May 1653, on account of the rebellion which begun the 23d of October 1641; they find the veſting clauſe in the act of ſettlement, and the clauſe, folio 540, that the King ſhall have power to nominate commiſſioners who are authorized

A ſpecial verdict on a trial in ejectment on the title.

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to put the King's declaration and inſtructions in execution; and what they do in purſuance of the ſame is declared to be good, firm and effectual in law to all intents and purpoſes; and that they and every of them are ratified and confirmed to the final ſettlement of every ſuch perſon, their heirs and aſſigns, according to ſuch decrees, orders, ſettlements and judgments, as have been, or ſhall be by the ſaid commiſſioners reſpectively given, for or concerning any matter cognizable by them, againſt his Majeſty, his heirs and ſucceſſors, and all and every other perſon and perſons whatſoever, their heirs and aſſigns, any thing in the ſaid declaration and inſtructions notwithſtanding. They find that Daniel M'Carthymore put in his petition before the commiſſioners, ſetting forth, that he was ſeized of the premiſſes the 28th of October 1641, and for many years after, that he was an innocent papiſt and prayed to be reſtored. That Daniel M'Carthymore died the 14th of January 1662; that the ſaid dame Sarah and Charles M'Carthymore, ſon of the ſaid Daniel, put in their petition, ſetting forth the ſaid ſettlement, and alledging that Daniel, at the time of making the ſaid deed, was innocent, and that the ſaid Sarah and Charles were innocent papiſts; on which there was a final hearing the 28th of July, 25 Car. II. And on ſuch hearing it appeared the ſaid Sarah was an innocent papiſt, and that Daniel M'Carthymore in his life time, and until the time of his death, was an innocent papiſt, and that the ſaid ſettlement appeared to them; and therefore they order and decree, that the ſaid Sarah is an innocent papiſt, within and according to the meaning of the ſaid act; and that the ſaid Daniel M'Carthymore, in his life time, *quoad hoc*, was an innocent papiſt; and that the claimant Sarah be forthwith reſtored; and that ſhe and her aſſigns may hold and enjoy the premiſſes, except, as is

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hereafter excepted, by virtue of the ſaid feoffment; and by and after the death of the ſaid M'Carthymore did of right or ought to come to her for and during her natural life, ſhe the ſaid claimant having claimed no other eſtate than for life by her ſaid claim. They find further, that Charles is dead and Honora is his widow, and in poſſeſſion by jointure, and that Randal ſon and heir of Charles is living.

Lord chief baron's argument.

All lands ſeiſed and ſequeſtered by the act of ſettlement veſted in the Crown as a royal truſtee, and the purpoſes.

Diveſting clauſe as to innocent papiſts.

But the innocent papiſts not to be reſtored immediately, nor until adjudication of innocence.

And it was argued by the chief baron; firſt, it is plain by the veſting clauſe in the ſettlement, all lands that were in ſeiſin and ſequeſtration were veſted in the Crown, as a royal truſtee, to ſettle the adventurers and ſoldiers in the lands that were juſtly forfeited to the Crown, of which they were in poſſeſſion in May 1649, and ſuch innocent perſons as were to be reſtored in their own proper lands. And then comes the diveſting clauſe which ſays, that the act is not to extend to the veſting any lands or tenements of any innocent papiſts, their innocent heirs, executors, adminiſtrators and aſſigns. But it appears both by the declaration that is incorporated with the act, and by the inſtructions, that the then innocent perſons were to be reſtored immediately; nor is the diveſting clauſe, ſo to be conſtrued, to take the lands again from the King, till they had made their innocence appear before the commiſſioners; for ſince the ſtatute diveſts the lands of innocent papiſts, and of their innocent heirs, executors and adminiſtrators, it appears by the declaration and inſtructions that the innocent papiſts were to make their innocence appear, before they could be reſtored to their lands, or intitled to a reſtitution.

Now

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Three caſes before the commiſſioners as to the innocence of papiſts.

Now as to the innocence of papiſts, and their reſtitution to their former lands, there were three caſes that chiefly happened before the commiſſioners on this head.

Firſt, Of innocents reſtored by the decree of the commiſſioners.

Secondly, Of innocents left to the law.

Thirdly, Of innocents *quoad hoc*.

1ſt caſe, Of innocents reſtored by the commiſſioners.

And firſt, As to innocents reſtored by the decree of the commiſſioners, the caſe was thus, viz. if there was any ſoldier or adventurer that was in the poſſeſſion of any land to which an innocent papiſt claimed to be reſtored, if the ſoldier or adventurer did not deny the land to be the eſtate of ſuch papiſt, then ſuch ſoldier or adventurer was to be repriſed, and the papiſt to be reſtored to his lands, if he made out his innocence; and then the whole conteſt between the papiſt and the adventurer was, whether the papiſt was innocent; and if that was proved, the lands were thereby diveſted out of the Crown, and the papiſt reſtored to the poſſeſſion, the adventurer being firſt repriſed in other lands.

2d, The caſe of innocents left to the law.

Secondly, Of innocents left to the law. This was where a papiſt was innocent, and pretended a title to land, and ſummoned the proprietor to appear before the commiſſioners, and the proprietor not only denied his innocence, but likewiſe the title of the papiſt claiming the eſtate. There if his innocency was found, he was found innocent at large, and left to the law to try his title to the eſtate. And by the act of explanation ſuch adventurer was, within three months after the ſitting of the commiſſioners for the execution of the act of explanation,

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to make his election whether he would deliver up and relinquiſh his poſſeſſion, and reſort to repriſals, or abide the trial; and if he choſe to abide the trial, then he was to be excluded from any repriſal, though it went againſt him. But the papiſt claimant was not to give in evidence any other title but what he exhibited in his claim before the commiſſioners for the execution of the former act.

3d caſe, Of innocents *quoad hoc.*

Thirdly, Of innocents *quoad hoc.* This was where there was a decree of innocence to ſuch lands where there was no ſoldier or adventurer in poſſeſſion, or to be ſummoned. And where there was no perſon to be ſummoned as poſſeſſor of the lands, there the commiſſioners for the execution of the ſaid act of ſettlement declared them innocent *quoad hoc.* And here the ſtatute mentions the grounds on which theſe decrees were made; viz. that it aroſe from an invention and ſtratagem of the papiſts to claim ſome ſmall denomination of land only, in order to eſcape the attention of the Attorney general and the adventurers, or to claim ſuch parcels of lands to which no oppoſition was made. And when the commiſſioners had declared the claimant innocent, they would, by virtue of ſuch decrees of innocence, claim title to great poſſeſſions, which if they had claimed at firſt, and ſummoned the adventurers to defend them, they would not have been found innocent; and therefore to check ſuch artifices where ſmall parcels were claimed, and no perſon came in as adventurer or ſoldier to oppoſe their pretenſions, they were uſed to declare them innocent *quoad hoc.* And thoſe decrees were by the act of explanation made valid, and not to entitle ſuch claimant to any other lands to which he had not exhibited his claim.

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And the plaintiff's caſe falls under the third head.

Our caſe falls under this third head; for Daniel Mac Carthymore, who made the ſettlement in 1647, was declared innocent *quoad* the lands in queſtion. And Sarah his wife is declared an innocent papiſt, and ſhe ſhall be forthwith reſtored to the premiſſes, except what is after excepted, by virtue of the feoffment, and by and after the death of the ſaid Daniel did or ought of right to go to her for and during her natural life, ſhe the ſaid claimant having claimed no other eſtate than for her life by the ſaid claim.

Decree of the commiſſioners could not alter the title of an innocent papiſt, ſo as to give him a leſs eſtate than he was entitled to.

Now the queſtion is, whether, when Sarah is tenant in tail of one moiety by feoffment, and of the other moiety in fee, ſhe is to be reduced by the decree of the commiſſioners to an eſtate for life.

And I am of opinion that ſhe ſtill continues the eſtate which veſted in her before the claim.

First reaſon.

Firſt, Becauſe the decree of the commiſſioners does not make a title to the innocent papiſt. And there is a manifeſt difference between the decree of the adventurer and ſoldier, and perſon to be reſtored; for the certificate and patent begins and makes the title to the adventurer and ſoldier, for the lands were forfeited to the King by the rebellion. And though the ſtatute 17 Car. I. c. 34. in England, had enacted, that the lands forfeited ſhould be ſet a part by lots for the adventurers; yet ſuch lots being ſet out in the time of the uſurped powers, created no title to the adventurers. But the innocent papiſt that was to be reſtored by the act, though the lands were in ſeiſin and ſequeſtration during the uſurpation, yet if he were really innocent no forfeiture was ever committed. And therefore when the commiſſioners

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commiſſioners declared any perſon innocent, he was reſtored to his title that he had before the making of the act; only he had no action for the meſne profits. And in this caſe they were in the ſame condition with all other cavaliers whoſe eſtates were ſeized in thoſe times.

2d reaſon.

Secondly, 'Tis plain from the diveſting clauſe; for as ſoon as the perſons are declared innocent, the lands are diveſted out of the Crown; and then they muſt be in the proprietor, in the ſame condition and manner as they held and enjoyed them before the act; for the commiſſioners had no power to make any alterations in eſtates diveſted out of the Crown, for then they were out of their power; and when they had declared the perſon innocent *quoad hoc* eſtate, it was out of their authority and power, and they could not make any decree to alter or change it.

3d reaſon.

Thirdly, This appears by the ſeveral manners by which the papiſt and adventurer conteſted before the commiſſioners, that they did not determine the title; for if both the claimant and adventurer agreed that the lands in queſtion were the claimant's before the rebellion, the only queſtion was, whether the papiſt was innocent, and if he were innocent he was then reſtored; becauſe the adventurer who was in poſſeſſion admitted it to be the eſtate of the papiſt; but when the adventurer diſputed not only his innocence but alſo his title, there, if it appeared that he was innocent, he was declared innocent at large, and his title left to the law; which ſhews plainly they were never authorized to enquire into the title. And if the queſtion was, whether the innocent papiſt was entitled to the lands, that was a queſtion merely to be tried by the law. And therefore, in the act of explanation, the adventurer was either to make his election in three

three months, to take the lands he had in poſſeſſion, ſubject to the title of the papiſt, or reſort to a repriſal. No. VI.

Fourthly, It is plain from the clauſe of the innocents *quoad hoc*, that though the commiſſioners might declare him innocent *quoad* part of the lands, they could not declare him innocent *quoad* part of the eſtate in the lands; becauſe the words of the ſtatute are, "That no "decrees whereby any perſons have been declared inno- "cent *quoad hoc*, ſhall give any ſuch perſon or perſons any "title, by virtue of any ſuch decree, to enter upon or "enjoy more or other lands than what were particularly "mentioned in ſuch decrees; but that all other lands of "ſuch perſon as was decreed innocent *quoad hoc*, which "were ſequeſtered on account of the war, ſhall remain to "his Majeſty to the uſes in the act." Here it is plain that this explanatory act only extends to the land in diſpute, *quoad* which the papiſt is declared innocent. And though the ſtatute admitted a ſoleciſm in ſpeaking, that a man ſhould be innocent *quoad* ſome lands, and not *quoad* others, it was to avoid a great inconvenience, viz. that a proprietor ſhould be turned out of his eſtate without ever being ſummoned, or heard, or any opportunity given him to make his defence; yet it will not thence follow, that we muſt admit a much greater inconſiſtency where no ſuch inconvenience would follow, viz. that he ſhould be innocent as to an eſtate for life in lands, and not as to the remainder or reverſion; for whether a greater or a leſſer eſtate was claimed, the tenant was to be ſummoned, and the Attorney general was to defend, where there was no perſon in the poſſeſſion of the eſtate. And therefore, in this caſe, if Sarah was entitled, as it appears ſhe was, ſhe was entitled to an eſtate tail, in one moiety of the land, 4th reaſon.

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and a fee in the other, which the commiſſioners by the act had no authority to change, alter, or abridge.

5th reaſon.

Fifthly, It would be the higheſt abſurdity that the commiſſioners ſhould be impowered to alter the titles of the innocent perſons, and is contrary to the whole tenor of the act; for that declares, that ſuch innocent perſons are to be reſtored; and a reſtitution muſt be to the title they formerly had to lands, otherwiſe it is not a reſtoration to an old title, but a creation of a new one.

Therefore, I think that Randal, the grandſon of Sarah, is well entitled by the verdict to the eſtate, and therefore that judgment ſhould be for the defendant.

COSSENS, leſſee of ROLLESTON, &c. againſt O'BRYEN, in ejectment, in C. P. Trin. 8 and 9 Geo. II. 1735.

Before 1641 ſir Terence O'Bryen died without iſſue, ſeiſed and poſſeſſed of the lands of Clonbryan and Killurane, in the declaration mentioned; leaving three ſiſters, Honora, Margaret, and Moone, to whom the premiſſes deſcended, as his heirs at law. In 1635 Margaret and Moone conveyed to Honora and Lewis Walſh her huſband, and the longer liver of them, and to the heirs male of their bodies; by virtue whereof they became ſeiſed, and ſo continued till they were expelled by the uſurping powers. Lewis died in 1650; by whoſe death Honora became entitled to the premiſſes, which being ſeiſed and ſequeſtered, and in the poſſeſſion of Francis Rolleſton, the anceſtor of the leſſor

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leſſor of the plaintiff, the ſaid Honora, and Edmond her ſon and heir by the ſaid Lewis, on the 15th of Sept. 13 Car. II. exhibited their claim to the commiſſioners for executing the act of ſettlement, and on the 24th of July, 15 Car. II. the ſaid Honora and Edmond were, upon full hearing, adjudged innocent papiſts; and Honora decreed and reſtored to the actual and ſeiſin of the premiſſes. Honora being ſo ſeiſed, by deed, dated Dec. 30, 1663, and fine, ſold and conveyed to Marcus O'Bryen, his heirs and aſſigns; by virtue whereof he became ſeiſed.

Marcus O'Bryen, being ſo ſeiſed, by deed, bearing date Nov. 6, 1674, in conſideration of a marriage had between Teige, his eldeſt ſon and heir apparent, and Bridget Callanan, and in purſuance of articles before the marriage executed, conveyed the premiſſes to truſtees, to the uſe of himſelf for life, remainder to the uſe of Teige and the heirs male of his body by the ſaid Bridget.

On the 9th of March, 1675, a commiſſion iſſued to the eſcheator of the province of Munſter, and others, to enquire what lands, *&c.* were forfeited to and veſted in the Crown by the rebellion in 1641, which were not diſpoſed of by the commiſſioners for executing the act of ſettlement. And on the 20th of May following, an inquiſition was taken, by which it was found that the premiſſes had been ſeiſed and ſequeſtered, and veſted in the Crown.

In the ſame year an information of intruſion was filed in the Exchequer, in the name of the Attorney general, againſt Marcus O'Bryen; who appeared, emparled, and afterwards let judgment go by default.

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On the 10th of Auguſt, 1677, 307 acres of profitable, and 163 acres of unprofitable land, in the lands of Clonbryan and Killurane, were granted to ſir Theophilus Jones, a deficient ſoldier, as repriſals for other lands. In which patent there was the following proviſo, viz. "Provided always, and our will and pleaſure is, that "theſe our letters patent, or any matter or thing con- "tained therein, ſhall not be conſtrued or extended to "grant unto the ſaid ſir T. J. his heirs and aſſigns, any "right, title, intereſt, claim, or demand, in or to any of "the above-mentioned lands, tenements, hereditaments, "or any part thereof, which by any certificate or certifi- "cates of our late commiſſioners, appointed for putting "in execution the acts of ſettlement and explanation, had "been adjudged or decreed to any perſon or perſons "whatſoever, to the uſes in the act mentioned or ex- "preſſed. And alſo that theſe our letters patent, or any "matter or thing contained therein, ſhall not be conſtrued "or extended to grant to the ſaid ſir T. J. his heirs or "aſſigns, any other right, title, eſtate, or intereſt, in or "to the above-mentioned lands, tenements, and heredi- "taments, or any of them, but only ſuch right, title, "eſtate, and intereſt therein and thereto, as is forfeited to "and veſted in us by the ſaid acts of ſettlement and ex- "planation, or is otherwiſe belonging unto us, and now "remains in our diſpoſal, any thing in theſe our letters "patent to the contrary notwithſtanding." Sir T. J. died in 1684; and ſir Arthur, his ſon and heir, in 1687, re- covered the premiſſes by ejectment, and died in 1690, leaving Thomas, his eldeſt ſon, who on the 24th of Feb. 1703, made a fee farm grant to Arthur Rolleſton, who dying in 1716, the lands deſcended to Francis Rolleſton his eldeſt ſon and heir, the leſſor of the plaintiff.

Marcus

Marcus O'Bryen died in 1706, and Teige his ſon in 1707, leaving Daniel his ſon and heir, who died in 1722, leaving Kendal his ſon and heir, who in 1724 brought his ejectment, (to which Francis Rolleſton took defence,) and obtained a verdict and judgment, for the poſſeſſion of the premiſſes, and was afterwards by *habere* put into poſſeſſion accordingly, and continued ſo poſſeſſed during his life; and after his death the premiſſes deſcended to Kendal O'Bryen his ſon and heir, the preſent defendant.

On the 18th June 1735, the iſſue in this cauſe was tried at bar in the court of common pleas, by a jury of the county Tipperary; the plaintiff's council in order to ſhew the number of acres mentioned in the letters patent to ſir T. Jones to be contained in the lands of Clonbryan and Killuran, offered to give in evidence a copy of the Down ſurvey and the references. But the defendant's council, Mr Prime ſerjeant, Mr. Stannard, and Mr. Callaghan, objected that the Down ſurvey was evidence only of the number of acres and bounds, and not of the property of the lands; that the references were not made evidence by the act of ſettlement, not being part of the Down ſurvey. That the civil ſurvey mentioned the proprietors, but was only an inquiſition; and then the Down ſurvey was made upon that inquiſition, to aſcertain the bounds of the lands and the number of acres; but that the references were only the act of the clerk. But on the other ſide, it was inſiſted by the plaintiff's council, the Attorney general, Mr. Malone, and Mr. Daly, that when the lands were ſurveyed, the ſurveyor marked the bounds by lines, and explained the meaning of thoſe lines by references to the map; that the references being to explain the ſurvey were good evidence; and that it was ſo determined in the Exchequer

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Exchequer by lord chief Baron Gilbert; the references being to explain a record; and that thoſe references were made at the time of the ſurvey by the ſurveyor general, ſir William Petty, and certified by him at the beginning of the book, 20 June 1657. And the references were allowed by the court to be read and holden to be part of the Down ſurvey.

An inquiſition allowed as evidence without producing the commiſſion.

Then plaintiff's council produced an inquiſition dated 20th May 1675, and Mr. Harriſon deputy to the ſecond remembrancer ſwore he found this inquiſition in the office, but found no commiſſion; that the office was irregularly kept before he came into it. It was objected that the defendant being in poſſeſſion, the commiſſion by which the inquiſition was taken ought to be produced; that where a poſſeſſion attends an inquiſition, the court will preſume a commiſſion, but not where poſſeſſion has been againſt the inquiſition. That, in the caſe of Edwards and Magawly, there was evidence given that there had been a commiſſion, though it was loſt. But the court allowed the inquiſition to be read, on account of the antiquity of it, and upon the evidence of Harriſon.

Then plaintiff's council produced the information of intruſion, againſt Marcus O'Bryen; and the judgment given againſt him, and the writ awarded to remove him. It was objected, that plaintiff's council before they read this information and judgment, ſhould ſhew how the information affected the defendant's title, or that the defendant claimed the lands in the information, or derived under the perſon againſt whom the information and judgment was. Then plaintiff's council proved the defendant's pedigree from Marcus againſt whom the information

formation was. And upon this evidence the information and judgment upon it were read. No. VI.

Then the plaintiff's council produced and read the letters patents to ſir Theophilus Jones dated 8th July 27 Car. II. 1675; and proved the death of ſir Theophilus Jones, and of ſir Arthur his only ſon and heir; and that Thomas Jones the ſon and heir of ſir Arthur, in 1703, conveyed the ſaid lands in fee farm to Arthur Rolleſton, father to Francis Rolleſton one of the leſſors of the plaintiff; and then endeavoured to prove a poſſeſſion in ſir Theophilus Jones, and thoſe deriving under him; and this they endeavoured chiefly, by procuring a copy of a charge for quit rent of Clonbryan and Killurane in the Auditor general's books, and receipts for that quit rent by the collector from ſir Theophilus Jones. It was objected that copies of entries in the Auditor general's books were no evidence; for that where there is a record, a copy of it may be read in evidence; but where there is only a writing, a copy of it is not evidence, but the books themſelves muſt be produced; as it was reſolved in the caſe of Keating and ſir Robert Echlin.

Copies of entries in the books in the Auditor general's office, if evidence.

Lindſay, juſt. The Auditor general will not part with his books. I think thoſe books are records; the entries of the charge of quit rent are not entered on the great roll of the Exchequer.

The copies of the charge of quit rent for Clonbryan and Killurane from the Auditor general's office were read; and likewiſe ſeveral receipts for quit rent by the collector from ſir Theophilus Jones for Clonbryan and Killurane. And plaintiff's council inſiſted that they had made a ſufficient title in the leſſors of the plaintiff.

Then

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Then defendant's counſel produced and read the decree of innocence to Honora O'Bryen, and the verdict and judgment in ejectment in 1724, by Kendal O'Bryen father of the defendant; and read a clauſe in the act of ſettlement, folio 404; and inſiſted that the decree of innocence and adjudication thereupon was a flat bar to the plaintiff's title; and cited the caſe of Lynch v. Coote, where the judges of the King's bench in England wrote to the judges of the King's bench in Ireland, to know their opinion on this point, viz. a man having title only to an eſtate for life, claimed an eſtate in fee before the commiſſioners for executing the act of ſettlement, and was decreed to an eſtate in fee; whether that decree was binding or concluſive; and the judges of the King's bench certified their opinions that it was.

Attorney general for the plaintiff. The King has affirmed his title by the judgment in the information of intruſion; and it muſt be allowed that that judgment is as ſtrong as a judgment in a real action. Hard. 462. The decree of innocence has a ſaving for the title of the Crown; the decree gives no more than Honora O'Bryen had in 1641. The decree is not concluſive to the King, and poſſeſſion has always gone with the patent.

Malone. A decree of innocence is not concluſive; it is agreed the lands in queſtion were ſeized and ſequeſtered on account of the rebellion in 1641, and all ſuch lands were actually veſted in the Crown by the act of ſettlement, and were to be ſet out by commiſſioners to the ſeveral perſons intitled under the qualifications in the act; where an innocent papiſt came to claim, he proved his innocence only; and the commiſſioners were judges only of

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of the nocency or innocency of the perſon claiming, but innocents were not to have lands decreed to them, they were to take nothing but what they had on the 23d of October 1641. Where a ſoldier or adventurer was in poſſeſſion of any lands claimed by an innocent papiſt, the innocents were left to law upon their innocency. So when the title of the claimant was controverted by a ſoldier or adventurer, the innocents were likewiſe left to law upon their title. But when the title was not controverted, nor any ſoldier or adventurer in poſſeſſion of the land claimed, then the innocents were decreed to the poſſeſſion, but not to any title. Where an innocent claimed ſome particular lands which were not controverted, and other lands, the title to which was diſputed by a ſoldier or adventurer, then they were decreed innocents *quoad hoc*. Suppoſe an innocent claimed upon a forged deed, a decree upon that claim does not deſtroy the King's right, and therefore there is always a ſaving for the King's title in the decree of innocency. In the patent to ſir Theophilus Jones there is a proviſo (as ſet forth before); this patent is of as much credit as if paſſed upon a certificate. Sir Theophilus was a deficient ſoldier intitled to repriſals. The information of intruſion ſuppoſes a precedent ſubſiſting title in the Crown; and the judgment upon that information is concluſive to O'Brien, though not to a ſtranger; and this is not a patent of grace. But if the plaintiff's caſe wanted any ſtrength, it is aided by the 10th of Will. cap. 7. The commiſſioners had finiſhed their power under the act of ſettlement as to ſoldiers and adventurers before 1675, but the commiſſion for tranſplanters did not begin till 1676. The act of King William enacts, that where a deficient ſoldier or adventurer has paſſed patent under which poſſeſſion has been in 1698, that patent ſhall be as valid as a certificate and patent.

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Soldiers and adventurers are favourites of the act of settlement; for innocents are not to be reſtored upon decrees of innocency to lands in the poſſeſſion of ſoldiers or adventurers, without previous repriſals to the ſoldier or adventurer; moſt of the decrees of innocency were upon ſuppoſed ſettlements in the family, by which the nocent perſon was only tenant for life; ſuppoſe the King was intitled to theſe lands by the nocency of any other perſon, the innocency of one perſon ſhall not take away the right and title of the Crown ariſing from the nocency of another perſon; the decree of innocence gives no title; and then when the King recovered in the information of intruſion, this ſhews a title in the Crown. A certificate without a patent gives only an equitable title; no patent ever paſſed without a decree of innocency. The proviſo in the patent to ſir Theophilus Jones is, that the patents ſhall not extend to lands diſpoſed of; thoſe words (lands diſpoſed of) are applicable only to lands diſpoſed of by the commiſſioners to the ſoldiers and adventurers, but not to lands of innocents. So then the queſtion is, whether theſe lands were veſted in the Crown; if they were, the decree of innocence does diveſt them; and if it does not appear that any act was done by the commiſſioners or by the Crown to diveſt them, then the lands muſt remain in the Crown; and were not diſpoſed of at the time of the patent to ſir Theophilus Jones. If it had not been for the reſolution of doubts, a ſoldier or adventurer could not have been removed in favour of an innocent, even though the ſoldier or adventurer had previous repriſals.

Daly. The decree of innocence makes no title but only removes an impediment ariſing from the ſuppoſed nocency of the perſon claiming; ſeveral perſons were not indicted or attainted, yet the ſeiſure and ſequeſtration veſted

veſted the lands in the Crown, as if the proprietor had been attainted. Where there was a claim by an innocent perſon of lands not diſpoſed of, the commiſſioners decreed the poſſeſſion. The decrees of innocence *quoad hoc* were founded on the act of explanation; the decree of innocence only removed an impediment, and made no title whatſoever. Here is a decree for Clonbrien and Killurane, and the inquiſition finds thoſe lands to be forfeited and then veſted in the Crown. Whoever enters upon the lands of the Crown is an intruder, but gains no eſtate; the information of intruſion is in nature of a real action, and the judgment is concluſive evidence for the Crown.

After a decree of innocence lands ſeiſed and ſequeſtered cannot be ſaid to have ever been veſted in the Crown.

Reynolds, chief juſt. I have ſeveral doubts upon the plaintiff's title in regard to the act of ſettlement, but I give no poſitive or deciſive opinion as to the act now. The patent is not founded on the act of ſettlement; the patentee cannot intitle himſelf by the patent only. I doubt the inquiſition does not intitle the King; for it only finds that the lands were ſeiſed and ſequeſtered, and ſo veſted in the King, and the act of ſettlement veſts them in the King. But when the decree of innocence comes, the lands cannot be ſaid to be then veſted, or ever to have been veſted in the Crown; the clauſe in the act for this purpoſe is very ſtrong. Though theſe lands were originally veſted in the Crown, yet ſince there is a decree of innocence, that takes the lands from the Crown *ab initio*; all the ſeiſin of the King previous to the letters patents is under the inquiſition, which only finds that theſe lands were ſeiſed and ſequeſtered. I apprehend theſe lands are not within the patent; for, by the proviſo in the patents, no lands paſs but ſuch as were forfeited to and veſted in the Crown by the act of ſettlement; but by the decree of innocence theſe lands were never veſted in the Crown.

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The judgment in the information of intruſion cannot extend to theſe lands, if not veſted in the Crown by the act of ſettlement.

Gore, juſt. Theſe lands were ſeiſed and ſequeſtered in no legal manner; the ſeiſure and ſequeſtration were not founded upon any legal proceedings or attainder. By the King's declaration and the act of ſettlement the forfeited eſtates were veſted in the Crown; but the right of innocent perſons was preſerved by the exception in the act of ſetttlement following the veſting clauſes. Whoever proved himſelf innocent was to be reſtored, where the lands were not before ſet out to a ſoldier or adventurer. It does not appear, but that Honora O'Brien, from the time of the decree of innocence was in poſſeſſion; ſhe is reſtored according to the longeſt day her nocency could begin, for ſhe is decreed innocent on the 22d of October 1641. Decreeing the innocent all the eſtate ſhe had on the 22d of October 1641, is ſufficient evidence againſt the Crown. The inquiſition ſays, that the lands were ſeiſed and ſequeſtered and veſted in the Crown, according to the act of ſettlement and explanation, which acts bring theſe lands back to the commiſſioners; and they have awarded the poſſeſſion of theſe lands to the innocent claimant. As to the information of intruſion, it does not appear to be brought on any other title but the inquiſition. The patent is of no avail, if the Crown was not intitled by the act of ſettlement. Sir Theophilus Jones was not in poſſeſſion when the decree of innocence paſſed; there was no ſoldier or adventurer in poſſeſſion previous to the patent; the Crown had no other title to theſe lands but under the act of ſettlement; for the inquiſition mentions no other title.

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Lindſay, juſt. Not only papiſts actually in rebellion, but all papiſts who did not prove that they were conſtant to the King, forfeited their lands; the marquiſs of Clanrickard, though a papiſt, never ſwerved, but always adhered to his duty. All lands, even of proteſtants as well as papiſts, were veſted in the Crown; but the innocent perſons were to make their claim, and if they proved themſelves innocent, were to have their lands again. There were three ſorts of innocents; firſt, innocents decreed by the commiſſioners to the lands; and then the lands were immediately given up, unleſs a ſoldier or adventurer was before in poſſeſſion; but if a ſoldier or adventurer was in poſſeſſion of the lands claimed, then he came in and diſputed the innocency only of the claimant; which if proved by the claimant, then the ſoldier or adventurer gave up the lands to the claimant, and reſorted to his repriſals; and then the eſtate claimed was diveſted out of the Crown; and this was a bar againſt all men as to the forfeiture. If the Crown had any other title but the ſuppoſed nocency, that title was ſaved; as in the caſe of Mrs. Carthymore, where the commiſſioners decreed her a jointure out of other lands than ſhe claimed by her ſettlement. Secondly, innocents left to law; when a ſoldier or adventurer was in poſſeſſion of lands claimed, and diſputed the title of the claimant to the eſtate claimed, then the commiſſioners only judged of the innocency, and left the claimant to law upon his title; and in this caſe the decree of innocence only removed an impediment. Thirdly, innocents *quoad hoc*; when papiſts claimed ſeveral ſmall parcels of land not in the poſſeſſion of a ſoldier or adventurer, and were decreed innocent, and to the poſſeſſion of the lands; then under that decree they would take poſſeſſion of ſeveral large parcels of land; therefore the

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the reſolution of doubts decrees them innocent only as to the particular lands claimed; and though the expreſſion of innocents *quoad hoc* appears to be a ſoleciſm, yet it was very applicable to the occaſion. I apprehend this decree of innocence is a bar againſt all men who ſet up a title in the Crown under the act of ſettlement.. The inquiſition finds no other title in the Crown, but that the lands were ſeiſed and ſcqueſtered. All the decrees of innocency are confirmed by act of parliament, and ſhall not be controlled and ſhaken by an inquiſition taken before an eſcheator in a private manner. The decrees of innocence are acts of the legiſlature, for they are all confirmed by the act of explanation. A decree of innocence is not to be ſhaken by a preſumption of ſome other nocent perſon. As to the judgment of the information of intruſion, it is not material in this caſe, for the King is not party here. The proviſo in the patents exempts theſe lands; for, at the time of the letters patents, theſe lands were never forfeited or veſted in the Crown. The ſoldier or adventurer was to be repriſed; and therefore the innocent perſons were put to their claim, and the decree of innocence diveſts the lands out of the Crown, and then nothing paſſes by the patent, which is the plaintiff's title; and I think theſe lands were not veſted in the Crown. If we ſhould admit evidence, as was offered, that there were only a particular number of acres decreed, when the decree mentions the whole denomination, this would be ſhaking the decree of innocence.

The plaintiff was non-ſuited by the unanimous opinion of the whole court.

* ANNESLEY

* ANNESLEY againſt DIXON.

Trin. 5 Ann, in B. R.

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On error of a judgment in Ireland; the queſtion was, whether the late Iriſh truſtees, authorized by act of parliament to enquire of forfeited eſtates, had the ſole power in them of judging what were forfeited eſtates, and what not? or whether that might be found by a jury?

Argument for the plaintiff in error.

This caſe was argued by the Attorney general for the plaintiff in error. The plaintiff muſt hold under the title of the truſtees; for it would be very miſchievous, if what the truſtees had done by force of an act of parliament, ſhould all be unravelled, and the purchaſers have no warranties, no proviſions nor covenants but this act; therefore it was plainly intended their titles ſhould not be litigated nor conteſted; and if the parliament did intend to leave room for any perſon to contend their title, then there would be ſome proviſion in caſe of eviction; but here is no ſuch thing; therefore theſe purchaſers who have given their money upon the higheſt ſecurity of this nation, ſhould not loſe the benefit thereof without recompence. And if this act could be ſo intended, it had been made in vain, for no one could find purchaſers; for no man would buy a litigious title, without ſome collateral ſecurity. It is objected, that this is an extraordinary power. It is ſo without queſtion; but we have ſeen as great powers given before; ſo is the plantation

* From reports of caſes determined by ſir John Holt.

act,

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act, whereby the whole plantation is veſted in truſtees. And ſurely it was very neceſſary to give ſuch a power; for papiſts never want deeds, and private ſettlements upon occaſion to trump up, which is very frequently done by them; wherefore when we conſider the great power, then we muſt at the ſame time conſider the nature of the thing. This caſe and the encouragement it has met with, has alarmed a great many purchaſers; and if the proceedings of the truſtees be unravelled, we know, that will be of very ill conſequence; but we know not where it will ſtop. The iniquity of this caſe appears by the ſpecial verdict, and the partiality uſed in this caſe; for if any queſtion ariſes about lands depending on the act of ſettlement, if the lands were ſeiſed and ſequeſtered, they never will admit any ſpecial verdict, though they will give a bill of exceptions, which ſignifies nothing; for being ſeiſed and ſequeſtered, makes a title with them not to be controverted; and I take the intent of this act of parliament was ſo here, that the decree and judgment of the truſtees ſhould be final. There were two objections made, firſt, whether the truſtees had power to determine what was veſted in them; ſecondly, whether any perſon could claim an inheritance. As to the firſt point, it is plain they had by the whole context of this act of parliament, a power to determine what was veſted in them; firſt, by their power of ſummoning all perſons before them, *&c.* and for what? it was ſurely to inquire into what eſtates were the forfeiting perſons, and what belonged to the late King James, which were already veſted; and to regiſter in books, for that purpoſe, ſuch eſtates and intereſts ſo veſted. Then ſurely they are to determine what is veſted; for I know not what words could be invented to give them ſuch a power, if theſe words will not do it, which are in the act, folio 17, 18.

And

And this clauſe is the foundation, and the reſt are only ſubſervient and directory; and if they had not power to determine, why ſhould the word "determine" be in the ſame clauſe, folio 21? Then there is encouragement to any diſcoverers, to whom the chief governor of Ireland was to give money on their certificates; and if they could not determine ſuch diſcoveries then made, then the revenue of Ireland was to be given for nothing. It muſt alſo be intended that the leſſor of the plaintiff, in the original action, had ſufficient notice according to the act; and beſides that, he claimed, and his claim was diſmiſſed; and ſo by the expreſs words of the act he was concluded: and the truſtees were judges of record, and therefore it muſt be intended they did right according to their duty, if the contrary does not appear. Then the under leſſees and farmers were compelled by this act to pay their rents to the truſtees; which could not, or would not be if the truſtees had not a good title by their determination. Again, the truſtees by their warrant could compel ſheriffs to give poſſeſſion to their vendees. And, ſo upon the whole matter, if the truſtees had not power to determine, this whole act had been unjuſt and nugatory.

As to the other point, which was an objection made by ſerjeant Brodrick, that this act did not allow any perſon to claim an inheritance; it is certain, that any perſon who claimed the inheritance might come in on the ſummons and proceedings of the truſtees, or elſe they might claim; for in the claiming clauſe theſe words are, "or any other eſtate;" and ſurely that ſhall extend to an eſtate of inheritance. I think that this gentleman's claim having been fully heard, and his title determined according to the methods preſcribed by this act of parliament, that the pretended new found title ſhould not have been

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allowed to be given in evidence. There is a fault in the ſpecial verdict; for by the act, rights of entry and rights of actions are given to the truſtees; and they duly find that the late King James was neither ſeiſed, poſſeſſed, or intereſted, or any one to his uſe, or in truſt for him, at the time of his acceſſion to the Crown; but do not ſay, that he had not either right of entry, or right of action, as they ſhould do.

Argument for the defendant.

Sir John Hollis for the defendant. If there be an act of parliament to ſell lands, and there happens a diſpute about the title, is not this to be tried at the common law? So, whether a man be a bankrupt, and what were his lands, is triable at law; ſo, what eſtate belonged to attainted perſons, and what to the late King James, is triable by a jury. And this act of parliament does not by expreſs words alter the law in this point; and we ſhall, I hope, give it no equitable conſtruction againſt magna charta, becauſe the veſting clauſe does only give them power to ſell ſuch eſtates. It muſt be allowed that it was well done of the truſtees to ſell ſuch eſtates as were veſted in them; but I believe that no man will ſay, that the truſtees might ſell what land they thought fit, which power the parliament did not think fit to give them. I know, that for this reaſon, that act was then, and ſince, by ſome thought defective; but the parliament would never mend the ſame. Therefore, the queſtion being not here, what ought to be, but what is their power, as I take it, by this act, it is like the power given to commiſſioners of bankrupts; for the truſtees could never by this act determine any thing ſummarily, but what was veſted in them; which is no more than what commiſſioners of bankrupts can do; the commiſſioners of bankrupts cannot ſell till they know what they have; no more could the truſtees. So if we conſider

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ſider all the power given to the truſtees, by this act, it will appear to be juſt equal to the power given to commiſſioners of bankrupts. All the forfeited eſtates, &c. were by this act veſted in the truſtees; but the act did not thereby determine what eſtates were forfeited, &c. nor who was attainted. As to the encouragement to diſcoverers, that makes nothing, becauſe the diſcoverers were not to be paid till the diſcovery was determined. And if the lands were in them, they might convey them, and give warrants to ſheriffs to put purchaſers into poſſeſſion.

As to the ſecond point, 'Tis true that eſtates of inheritance were to be claimed, &c. by this act; but that was only to be by the words and ſenſe of the act, reverſions or remainders upon particular forfeited, &c. eſtates, or any incumbrances or charges upon them; for beſides, what ſenſe could there be, if every man, who had an eſtate in fee ſimple in Ireland, ſhould be obliged to claim his eſtate before the truſtees, though he and his anceſtors were in poſſeſſion never ſo long? And then it would be in the power of the truſtees to determine every man's eſtate in Ireland, and ſay they did belong to the late King James, or to forfeiting perſons. This is ſo great an abſurdity that I think no reaſonable man can ſuppoſe; and yet this is our caſe; for the ſpecial verdict finds our title, finds our poſſeſſion all along; and until theſe gentlemen went over, there is no title found in the truſtees, but their own judgment, which I think will give none, for our claim gives no title at all.

Reply for the plaintiff.

Attorney general; — We agree, that claiming or not claiming makes nothing in the caſe, for the claim gives no title; I do not think the parity between the power of truſtees and of commiſſioners of bankrupts will hold; for

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the former have a power to determine, and then to ſell; but the latter have only a power to ſell.

Holt, C. J.

Holt, C. J. — Is there any thing veſted in the truſtees but thoſe lands, *&c.* which were forfeited, and thoſe which did belong to King James? Surely, no. Then it is reaſonable for the truſtees to have power to ſend for perſons, papers, and records, to reduce theſe forfeitures to a certainty; but ſurely that cannot by any conſtruction be intended a power to them to determine what eſtate and what lands were in them, and what belonged to other perſons who did not forfeit; but it is reaſonable that thoſe who had incumbrances, *&c.* and reverſions, and remainders, on particular forfeited, *&c.* eſtates ſhould claim. I think the finding in the ſpecial verdict good enough.

Powel, juſt.

Powel, juſtice. — Surely, the veſting clauſe did veſt no more in the truſtees than what was forfeited, or did belong to the late King James; and if theſe lands were not veſted, nor did belong to King James, then they were not veſted in the truſtees; and if they were not veſted, then they could not convey the ſame to Mr. Anneſley. As to the miſchief to the purchaſers, it is true it may be great; but it may be a very great miſchief and injuſtice if the truſtees ſold people's land, becauſe they ſaid they did belong to a forfeiting perſon, or to King James. *Caveat emp.or.* All the lands of forfeiting perſons are in the Crown by the law of the land; but then there muſt be an office of information, which is traverſable. If we take the commiſſion here given to the truſtees, as to this point to be in lieu of ſuch office, as I think it can be no more, then ſurely it is and ought to be traverſable.

Powis,

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Powis, juſtice. — The miſchief would be ſo great to the purchaſers, and the greateſt ſecurity of the nation ſo leſſened thereby, that it would be of very great and dangerous conſequence if this judgment ſtood; no purchaſer would be ſafe; for at leaſt 1000 actions wait on the ſucceſs of this cauſe; and papiſts will never want deeds and ſettlements to trump up to ſerve their turn; and by that means this act of parliament, which was deſigned for good ends, viz. to raiſe money, and quiet the kingdom of Ireland, will have a quite different effect; viz. to deceive all thoſe who purchaſed under it; and enforcing, almoſt, the people of England to give a tax to pay this money back for the ſupport of the credit of the nation. Powis, juſt.

Gould, juſtice, would ſay nothing till the next argument. Gould, juſt.

MICHAELMAS, 5 ANNE.

Sir Thomas Powis, for the plaintiff in error, hoped the judgment would be reverſed. For the queſtion is now, whether Dixon having entered his claim, and being diſmiſſed by the truſtees, ſhall be admitted to bring his ejectment and ſet up the ſame title; and that a jury ſhall try the ſame fact which was before ſettled by the truſtees; and whether, now after the ſale, this will be admitted and controverted, which ought to have been ſettled before the ſale? If ſuch a thing could be imagined then, or there had been any ground for ſuch an opinion, I do believe our act here had been made in vain; for we ſhould have got no purchaſers, and ſo the publick would For the plaintiff in error.

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loſe what was deſigned by ſuch a beneficial act, which brought us in £800,000. Now the queſtion remains, whether they could determine what was veſted? And I think they could, from the neceſſity of the thing, from the miſchief that otherwiſe muſt follow, and from the words of the act of parliament. From the neceſſity; for we are to conſtrue acts of parliament by the preambles; now by the preamble we are to expect a great deal of money by the ſale of the Iriſh forfeitures; and how could that be expected, if the truſtees could not make a title to the purchaſers? Next, it was reaſonable and neceſſary that ſuch power to determine what was forfeited, and what was veſted, ſhould be lodged ſomewhere; and we know of none other; therefore it muſt be in the truſtees. Beſides, the truſtees had power to determine incumbrances; therefore it is more reaſonable that they ſhould have power firſt to ſettle ſuch eſtates on which the incumbrances were, and which were ſubject to the ſame: how could they determine the incumbrances, if they could not ſettle the lands which were ſubject? And it is not reaſonable that they had power to determine part, if they could not determine the whole; beſides, it was more reaſonable and neceſſary that the truſtees ſhould have power to ſettle the whole, becauſe they were armed with an extraordinary power to find out the forfeited lands, for the forfeiting perſons kept their deeds and titles, ſo that the purchaſers or even the truſtees could not have them. But the vendees were to have a good title made to them; and how will this be at this rate? The purchaſers were and are ſuppoſed to be Engliſhmen, and by the expreſs words of that act of parliament are to be proteſtants; and the perſons that forfeited were papiſts; in what condition are ſuch Engliſh proteſtants now, if this judgment ſhould be affirmed, when papiſts may be jurors in that kingdom at this day?

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We may gueſs what equality ſuch purchaſers will have there in ſuch caſe; and we know that venomous beaſts will not live in that country; yet there is as much perjury and forgery there as in their neighbouring countries; to prevent which it was neceſſary the vendees ſhould have a good title; which could not be if the truſtees had not a power to determine what was forfeited. The purchaſers by this act were to pay their money into the Exchequer there, before they could have any conveyance; and by this act they were only to have a bare deed of bargain and ſale, without the uſual covenants; which was thought and made ſufficient by this act of parliament againſt all people, but ſuch whoſe claims were allowed them by the truſtees. How then ſhall theſe purchaſers, if you take their land from them, have their money back? I ſee no way; nor any remedy for them. It has been objected that ſuch power would be exorbitant and too great to be given; but this objection is of no weight, if we conſider that it will go to all powers, to judges, juries, *&c.* For ſuch a power muſt be ſomewhere; and where could ſuch a power be lodged with more ſafety to the publick than where it was, viz. in the truſtees, who were choſen by the King, lords, and commoners; they were then known perſons, they had rewards given them, which kept them beyond corruption; they were on their oaths; they were not to buy or purchaſe, or any one for their uſe, or in truſt for them, any eſtate or intereſt in or to any lands in Ireland which were veſted in them by this act; ſo that there was all the reaſon that human prudence could foreſee, to ſatisfy, that ſuch power was well repoſed in the truſtees: and they behaved themſelves ſo well that this is the firſt complaint which has been regularly made againſt them: ſo that we have all reaſon to be ſatisfied with them. Beſides, the commiſſioners who were at firſt ſent over to enquire into

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into the ſeveral forfeitures, and the grants made of them, who were to make a regiſtry of all the forfeited and other eſtates in Ireland which were to be veſted by this act, were a ſufficient notice to all perſons: folio 17, 18, of this act. How then could they make ſuch a regiſtry, if they knew not or could not determine what was forfeited, or the perſons forfeiting? As to the incumbrances, now every perſon had notice that was in danger; then the next thing to be done was to claim, for which they had ſufficient time allowed them by the act. But here it was objected, that it was very hard that the judgment of the truſtees ſhould be final, and that no appeal or writ of error ſhould be, &c. That is not as hard as they make it, becauſe we have frequent examples of ſuch acts of parliament, whereby ſummary proceedings are warranted by juſtices of the peace; and ſuch was the power given by their own act of ſettlement in Ireland, whereon no man has ever heard of an appeal or writ of error brought; and I take it that this act was framed by that. But to give a full anſwer to this objection; they do agree on the other ſide that a power was given to ſettle incumbrances; why may it not be ſo in land, when the incumbrances may be of as great value, if not more than the lands? And is there not as great regard to be had to thoſe whoſe all conſiſts in incumbrances, as to thoſe who have lands? So that we ſee that the gentlemen of the other ſide inveigh againſt a power which they admit. And if there had been any further appeals from their judgments, no man would purchaſe till they were determined; for no man would buy a litigated power. But here every body by the regiſtry knew whether he was grieved; for the regiſtry was a ſort of interlocutory judgment. Then they were to claim; for which they had full time, and a fair hearing; and if they were wronged they might apply to the parliament; which

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which then was frequent, and which every man knew would be ſo; and we have heard no ſuch complaints againſt them; and if there had been any cauſe for it, we ſhould have heard before now. If this action ſhould be, or go againſt us, the miſchief would be that this act of parliament, which was made for very good ends, would be evaded and rendered uſeleſs. But ſuch conſtructions are not to be made of acts of parliament. Hob. 93 and 97, in Moor and Huſſey's caſe. And lord Coke ſays, *maledicta expoſitio eſt quæ corrumpit textum*; and in another place he calls it *viperina expoſitio*; and if that be ſo in any caſe, it is ſo here, for this whole act would be avoided, which was made for ſuch good purpoſes; for though the incumbrancers be bound by the judgment of the truſtees, yet they may bring their actions, and ſay that the lands which were ſubject to the incumbrances were not forfeited; ſo that no purchaſers under this act are ſafe, becauſe that every perſon will directly or indirectly avoid the judgment of the truſtees. Would not this make the whole act illuſory, the mark for every body to ſhoot at? For I know of no other limitation of ejectments. And this in the caſe of innocent people, and Engliſh proteſtants, ſubject to popiſh juries, *&c.* which, I ſaid before, ſurely no man will ſay was a deſign of ſuch act; but ſuch will be the conſequence, if ſuch conſtruction as they would have ſtands. The truſtees were armed with an extraordinary power; they could ſend for any perſon in that kingdom; they could examine them upon oath; they could ſend for evidences, deeds, and writings, and keep them as long as they thought fitting, *&c.* and all this was to find out the truth of what lands were forfeited, and what incumbrances, *&c.* were upon them. And was not this extraordinary power given them to no purpoſe, if they could not determine, unleſs it was to deceive purchaſers? Either

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the parliament ſhould make the judgment of the truſtees final, or elſe they ſhould tranſmit this extraordinary power to their vendees; and if neither, then I muſt ſay that this is the moſt diſhonourable act of parliament, or conſtruction upon it, that can be thought on. Mr. Dixon has himſelf claimed the lands, and has been allowed in part, and diſallowed by the reſidue; yet I believe he thinks himſelf ſafe under the truſtees for the part which they have allowed him. By the expreſs words of that act of parliament, the decree of the truſtees is to be final and binding againſt the ſaid truſtees and their heirs, and againſt the King, his heirs and ſucceſſors: and would it not be very miſchievous and abſurd that the judgment of the truſtees ſhould be final and binding one, and ſhould have no force the other way? Beſides, no writ of error nor attaint lies, unleſs the matter or the ſame evidence which appeared on the original action be then to be had; and that is founded upon great reaſon and great juſtice and equity; becauſe the firſt judgment ſhall not be condemned, unleſs the motives and inducement whereon the ſame was grounded appear, when that is re-examined; for that poſſibly there was a good motive to give the firſt judgment, which does not appear in the re-examination; and that is the reaſon that if one of the witneſſes die the attaint fails. 1 Roll. 285. Now, that is our caſe; the truſtees were armed with very extraordinary means to ſend for perſons, papers, and records, to examine perſons upon oath, to examine other men's deeds and writings; and ſo might have great reaſon for judging this land to have been of the duke of York's eſtate; (and we are the more induced to believe it, for that the leſſor of the plaintiff ſays in his claim he would for his peace ſake purchaſe it). Now the defendant in ejectment has no ſuch power, no ſuch reaſon and proof for him as the truſtees had,

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had, and is put in this action to plead the general iſſue. Laſtly, I think that by the words of the act of parliament, this power is given to the truſtees to determine what is veſted. They are to declare what is forfeited and veſted; for the words of an act of parliament are to be literally conſtrued *ſuper totam materiam*; and not like words of the parties in grants or deeds, which are to be moſt ſtrongly taken *contra proferentes*. 'Tis true, there are no expreſs words for them to determine what is veſted; but they are to declare what is forfeited; and conſequently to declare what is veſted; for all the forfeited lands are veſted in them by this act; and this not by any expreſs words, but taking all together. If this be not ſo, to what purpoſe had they all this extraordinary power to ſend for perſons, deeds, and writings? This muſt be to ſome purpoſe or end, for the benefit of the publick that did employ them; for no body elſe could be the better of it; nor even the publick, unleſs their judgments were to be final. Then they were to regiſter; what? As well the inheritance as the incumbrances; all the eſtate in the lands, and alſo particular eſtates, reverſions, and remainders. So that they were not to regiſter part but the whole; then, naturally, comes immediately after the ſaving for innocent perſons to claim, not only incumbrances, but alſo the poſſeſſion and inheritance. The words are not, that they ſhall claim the particular eſtate, reverſions, remainders, or incumbrances, but they may claim every thing in the premiſſes; and premiſſes is every thing put before; viz. all the eſtate and intereſt in the lands, all the eſtate therein: now, I ſay, whatever the party could claim by this act, the truſtees had a power to determine. If an innocent perſon had a power to claim, and they determined, and could do ſo by this act, then certainly the truſtees could determine it. The act goes on in the ſame

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place, fol. 27, and ſays, every perſon who does not claim, his right ſhall be extinguiſhed and gone; ſo that clauſe of claiming is univerſal, and lands veſted ſhall be taken to be what is regiſtered, until it be taken out by the ſubſequent claim; ſo that the word "veſted" ſhall not be taken to be abſolute at firſt, until the claim be determined. And therefore Hobart, with a great deal of reaſon, ſays, that words cannot be written or ſpoken at the ſame time, though they were at the ſame time imagined by the author. Every perſon was concluded by the judgment of the truſtees; infants, feme coverts, ideots, perſons beyond the ſeas; therefore, ſurely, their judgment muſt be final; and I muſt again inſiſt upon it, that wherever any perſon could claim by this act, the truſtees could determine. As for the caſes of commiſſioners of ſewers and commiſſioners of bankrupts I think they are not at all applicable to this caſe, for they are no judges, 8 Co. 121. a. nor are they any court of record. But the truſtees were judges of record, and had full power to hear and determine. So we may diſtinguiſh this caſe from the caſe of Hard. 478. 480, (which caſe is not there adjudged, *quod nota*) becauſe the commiſſioners of exciſe there had no power to judge what liquors were exciſable; otherwiſe, if they had judged ſmall beer to be ſtrong; for there they had juriſdiction; but here the truſtees were judges of what was forfeited; and, if not, then ſeveral other clauſes, as I ſaid before, would be abſurd; as that clauſe that gives them power to give treble damages, if any waſte be done in the forfeited lands; and how can that be, unleſs they can determine what thoſe lands are? Laſtly, if this power is not expreſsly given *in terminis* in the act, yet it is at leaſt neceſſarily implied; as *ſine qua res ipſa ſubſiſtere poteſt.* Hob. 234. Wherefore, if the King gives, by his letters patent, lands *probis hominibus* of Iſlington, rendering a rent;

a rent; this is an incorporation to that ſpecial purpoſe. Therefore here the truſtees, if they could not determine what was forfeited, could determine nothing; ſo that even what is agreed of the other ſide, that their judgment was final as to incumbrances, particular eſtates, reverſions and remainders, could not be ſo, unleſs they could determine what was forfeited. And I take it that the finding of the jury ſhall not be taken here to be the truth, for they are eſtopped by the decree of the truſtees; as if trover be brought for the goods that belonged to a feme before the coverture; if before this comes to a jury, the marriage is diſſolved in the eccleſiaſtical court, or the lawfulneſs of the marriage was determined there, this ſhould conclude the jury. Therefore ſince this point has been determined by the truſtees who had juriſdiction thereof by this act of parliament, I hope that juries will not be let in to undo poor innocent purchaſers.

For the defendant in error.

Serjeant Weld for the defendant. I do agree with my brother Powis, that if the truſtees had power by this act before, that the jury ought not to be admitted to try it again; for the judgment of the truſtees was final in ſuch things whereof they had juriſdiction. But the queſtion between us is, whether the truſtees had a power to determine what was forfeited? for if they had not, then what judgment they gave was *coram non judice*, and void; for if they had not power, they could not judge. I ſhall only ſpeak of the duke of York's eſtate, which is now the point, for we have no diſpute now about the forfeited eſtates. In the act, fo. 9, it is declared, what ſhould be veſted; and that was what King James II. at the time of his acceſſion to the Crown of England was ſeiſed or poſſeſſed of, or any other perſon in truſt for him, or to his uſe. Now, that was a notorious thing, and not ſo long ſince, but that

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that ſeveral perſons could prove what that was; and whatever that was, it was veſted and no more. Then comes ſo. 14, where the truſtees were to ſwear they would not purchaſe any part of the lands veſted; yet at this rate, and by my brother's conſtruction they might purchaſe great eſtates in Ireland, and yet purchaſe no part of the lands veſted; they might purchaſe all the defendant's eſtate, yet not break their oath. Then the claiming clauſe ſays, they ſhall put in their claims to all the lands veſted by this act. Then the clauſe that impowers them to ſell ſays only that they ſhall ſell and diſpoſe of all the lands veſted; ſo that all the powers and authorities given them by this act are over the lands veſted, and not one word in all the act gives them authority to determine what is veſted. But if it be veſted, then they have power. It was ſaid that if we could claim, they could determine; to that I can ſay that all the forfeited lands in Ireland were in the truſtees by this act, and they had power to determine of them and no other; and if I claimed from them where they had no juriſdiction, their judgment for me did not mend my title; no more could their judgment againſt me do any hurt. But if it was a forfeited eſtate, or was belonging to the late King James, then they had juriſdiction; ſo that it is plain that this act gave them a limited, and my brother would give them an abſolute power. The lands did ſuch a day belong to I. S, yet the truſtees might at this rate, by matter *ex poſt facto*, ſay it was forfeited, and ſo veſt this in themſelves. The act of parliament did veſt the duke of York's land and the forfeited lands in theſe truſtees; but by my brother's conſtruction they ſhall veſt the lands of all Ireland in them, and that by colour of this act of parliament; this conſtruction would be as miſchievous, and more than the other. If the act was thus to be conſtrued, I think it were better to ſend over a new colony into

into Ireland, and turn them all out of their eſtates, than to give a power of doing it in effect under a pretence of juſtice. This would be like the fox in the fable, who would not come to court, for fear his ears ſhould be ſaid to be horns. But, ſay they, Mr. Dixon has claimed, and has admitted the juriſdiction of the truſtees; and therefore now he ſhall be concluded. Truly, if that ſhould be thought a reaſon, it would be a pretty hard one; firſt, becauſe the truſtees turned him out of poſſeſſion, therefore I think he ſhould complain to them; his poſſeſſion was undiſturbed till they came; then he complains to them, and ſets forth his claim; and in all his claim he does not ſay nor admit that the late King James had any right; but he ſhews that one ſir William Talbot, who was a very buſy ſort of man, and who was a gentleman to the duke of York, made a leaſe of theſe lands, which the truſtees decreed againſt my client; but no poſſeſſion ever went along with ſuch leaſe; nor does he allow either by implication, or by expreſs words, that the duke of York, or any concerned for him had any right, as my brother would inſinuate; and for this I ſubmit myſelf to the claim, which alſo is found in the ſpecial verdict; ſo that it was fit for him to complain to the truſtees, who turned him out. But if he had no further remedy, and if all the people of that country had no other remedy in ſuch caſe, it would be very hard to have recourſe only to thoſe who wronged them; ſo that the people there if our claiming gives them juriſdiction, were in a very bad way; for if they claimed, then they admitted the juriſdiction of the truſtees, and ſo were concluded by their judgment; if they did not claim, then they were concluded alſo; for their right was gone ſay my brother, if they did not claim. This is a mere juggle, like, croſs, I win, pile, you loſe; but they have no power, but what is given them by this act, and this power was not given; therefore

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therefore, it is like an appeal of murder brought in the C. B, or a fine levied in this court; for though they are both courts of record, yet their proceedings in ſuch caſe would be *coram non judice*, and void; ſo is the caſe of Terry and Huntington, Hard. 480, and the lord Leiceſter's caſe in Plowden's commentaries, which are both very applicable to this caſe; for that the truſtees had not power to judge what was forfeited, or what was not, for the act of parliament did determine that point; therefore whatever judgments they gave upon that matter are void. It was objected, and much inſiſted on, that their ways of judgments and the ways they had, were very different from that which a jury can have; but what I ſaid laſt will anſwer that; though in truth, I do believe the ways they look were paſt finding out, and it would be very proper perhaps to bring them to light.

It was inſiſted on the other ſide, that this act would be impertinent and diſhonourable, unleſs it did give power to thoſe truſtees to diſpoſe of all this kingdom; for ſo far their conſtruction would carry it; and we are now to thank them that they have not done it; for they might do ſo by their conſtruction, and warrant it when they had done it. Would not this be a miſchievous conſtruction, that becauſe they have a power over forfeited lands, they muſt alſo have a power over innocent eſtates too? And this they ſay is neceſſary to ſecure purchaſers. Surely it is no new thing in our books or experience, to hear of forfeitures in other countries, as well as this; and there have been purchaſers found out, without this extraordinary method to ſecure them; and can there be no way to ſecure them but by making theſe gentlemen (who poſſibly were honeſt enough) have power of diſpoſing of the eſtates of all the innocents in this kingdom? But I take

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it there was no neceſſity for it, nor for deeds or writings either; for if there was a poſſeſſion in the forfeiting perſons, or in the late King James, when he came to the Crown, that was enough to give them power and juriſdiction; for deeds and covenants are not neceſſary to give a poſſeſſion, which is a notorious thing and eaſily known, being ſo lately in every man's memory; therefore theſe extraordinary powers are not at all neceſſary to be given. They tell us of ſeveral acts of parliament that give power to proceed ſummarily, but they do not tell us what they are; but I ſay there is no ſuch act, nor ever was ſuch power given without expreſs words at leaſt, and though there may be ſuch acts, yet they concern only chattels; but a man's freehold and inheritance ſhall never be diveſted, without very ſtrong and expreſs words. The act for building of London gave power; but yet if a new houſe was on part of the old foundation, and partly on my ground, the perſons impowered by that act could not juſtify this building; for that was out of their juriſdiction; and that was to be tried at law; ſo here. As to what was ſaid of the people of the country, I muſt differ with him, for I think they are a very honeſt ſort of people, and he ſhould ſay ſo too; for they might have found a general verdict againſt the defendant; and if ſo, then my brother might have ſome thing to ſay of them; but here they found the matter at large, and refer the point of law to the court. It was ſaid it was neceſſary to raiſe a great ſum of money, but I think it would be very diſhonourable if the people of England would raiſe it out of the innocents eſtates; then my brother ſays, papiſts are jurors; then I ſay, all the ſheriffs there are proteſtants, and they will not, nor are they admitted to return a jury of papiſts. My brother ſaid, that all power was arbitrary; I ſay ſo too; but that is in the dernier reſort, King, lords, and commons,

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mons, and that by ſteps too; I hope he will not put theſe gentlemen in the ſame rank, and any ſeven of them. If I am to find out by all means the eſtate of John of Styles and to ſell it, does it follow that if I am falſely informed, and I ſell that ground on ſuch information, is this binding? Surely no; why then ſhould not the information of the truſtees be liable in this point to a ſcrutiny? My brother ſays the word "premiſſes" in this act compriſed all; which I deny, for the common caſe is againſt him; for if I let a piece of ground, and ſet forth the abuttals, this would be *viperina expoſitio* with a vengeance. Then they ſhall not be veſted till the claims are heard; that will be as bad; and I am ſure my brother's ſaying ſo will not make it ſo; but then he thinks that will not do, and ſays they are veſted by their regiſtry, and they are to be taken out by claim; why then they might regiſter all the lands in the kingdom. This I am ſure would be *viperina expoſitio*. But my brother at laſt comes to own there are no expreſs words for him; then, he ſays the power is given by implication; for that I ſay what I have before ſaid, that no ſuch power ever was or can be given by implication, but by expreſs words, which are not here. My brother ſays there is but this complaint; then the miſchief is not ſo great as my brother ſeems to apprehend; but if there had been more, I doubt not but they ſhould have their due and proper remedies.

Reply for the plaintiff.

Sir Thomas Powis replied, I agree with my brother Weld, if there was no juriſdiction in the truſtees then their decree was void. But the queſtion between us is, whether they had ſuch a power or not? which he has not, as I take it, anſwered. He ſays, we are to avoid arbitrary power, in the main I agree with him; but I hope he does not mean acts of parliament; if ſo, I diſagree with him; for

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for every act of parliament is ſo; and ſo is this act as well as others. I muſt then beg leave to inſiſt upon it, and my brother has given no anſwer to what I ſaid, viz. that if any man claimed, and his claim was allowed, the King and all the people of England were bound by their judgment, and might have their remedy at law. Is not this the juggle that I ſpoke of, and will not his fable be applicable to the people of England, who give a power to truſtees to act, ſo as to conclude them, and leave the other ſide at large? Had not theſe truſtees power to give away all the forfeited lands, *&c.* in Ireland? and were not we bound, and why ſhould they not have the ſame power over the innocents? Theſe truſtees were thought to be indifferent, why then ſhould they not have power over the other ſide? Have not juries power to take the lives of innocent perſons? So that this power which looks frightful at firſt, yet is very familiar when viewed at a nearer diſtance. I do agree with my brother, that all the lands are veſted by the act, but they are aſcertained by the determination of claims. The caſe put by my brother is very true, if I have authority to ſell the eſtate of John of Styles; but if I have a judicial power, it is otherwiſe; ſo is his caſe of the building of London, and all his other caſes. I ſay they had a power of judicature, which is to allow of incumbrances, *&c.* which could not be, unleſs they could alſo judge of the poſſeſſion and inheritance.

This caſe was argued again, and the three juſtices againſt Powis were for affirming the judgment, and accordingly it was affirmed.

Gould, juſtice, ſaid, that he thought the power of the truſtees by the act was negative, viz. that they had power Gould, juſt.

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only over the forfeited eſtates of the lands belonging to the late King James in Ireland; which lands were by this act of parliament veſted in them; their power to inquire which were theſe lands, was only in the nature of an office of inquiſition. It is negative, and limited by the preamble; becauſe there it is ſhewn the Iriſh began a rebellion, &c. therefore their eſtates were forfeited, in order to aid the great expence this kingdom was at, in reducing theſe rebels; and to that purpoſe they were veſted in the truſtees; and the ſame order was taken for the eſtate of the late King James; this will not ſurely veſt any other than thoſe mentioned; for the eſtates of innocent perſons ſhall not be effected thereby; becauſe it was not intended they ſhould ſuffer. It is true, the truſtees had a great power; but that was only over what was veſted. But then it was ſaid, that they have power to determine what was veſted, becauſe they could not otherwiſe know what lands they had; as to that I think their power was rather like an office of inquiſition, to know the certainty of the lands; and their power is over lands veſted only, and if they had any power over any other lands, it was by implication only; and I am of opinion that no act of parliament can veſt my lands in them, without expreſs words; and this at moſt is but by implication, which is not ſufficient. I think it is doubtful, and therefore to be conſtrued according to the common law, as it is held in Fermor's caſe, 3 Co. 77. b. 78. and Terry and Huntington is I think full for the judgment. And, I do believe the makers of this ſtatute did only intend to veſt the lands of King James, and the forfeiting perſons; and if they meant otherwiſe, they did not ſhew it in expreſs words.

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Powis, juſt.

Powis, contra. The truſtees cannot be ſaid to be an inquiſition of office; for they are a court of judicature, and had an extraordinary power given them, and there were great reaſons for giving them ſuch a power; for Ireland is a country wherein rebellions are very frequent, and once in every fifty years the Roman catholick gentlemen have always had private ſettlements, whereby they evaded the forfeitures upon that account; and therefore an act of parliament does take notice thereof; for which you may ſee the care that was taken in the acts of ſettlement and explanation; and though both of them are much more uncertain than this act of parliament, yet they are held ſacred by the courts of judicature in Ireland, and a decree of their courts of claims or letters patent are concluſive; and much more in this caſe; for the makers of this act had the conſideration of theſe other acts before them; therefore they gave their commiſſioners the truſtees full power to hear and determine; and the ſteps they were to take clearly chalked out; this act is much better and more clearly penned, and I know not why it ſhould not meet with the ſame encouragement. The truſtees had a power of judicature, the plaintiff Dixon in this judicature claimed, and in his claim he owns that ſir William Talbot the duke of York's agent did lett to Quin, ſo he ſhewed it was a doubtful point, who had the right; then they did hear and determine this point upon full debate, and the act ſays their judgment is final; if ſo, then there is no reaſon to bring this ejectment. But it is ſaid, they have not a power to determine what is veſted; this I take to be one main point, and the ſecond point is, if a jury can enquire and find contrary to their decree. To the firſt point, I ſay that in every clauſe of the act they have a power to determine what was veſted; firſt by the

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the claiming clauſe, as ſtrong as general words could deviſe "all perſons having any eſtate, right, title or intereſt, *&c.*" ſurely, this does extend to an inheritance, and not to incumbrances only, as they would object on the other ſide, for it is not in reaſon to be ſuppoſed but the legiſlators would take as much care, that the purchaſers under this act ſhould be at leaſt as free from pretended titles, or real elder titles, as from incumbrances, which are periſhable in reſpect to titles, which may defeat the entire purchaſe; and we ſhould not preſume that any judges ſhould or would do any thing that was not fair; much leſs theſe judges, who were men of great merit, and were choſen by King, lords and commons; and were men of great integrity, for we never heard of any complaints of them before now. It is true, they cannot ſay that what they will is in their juriſdiction; but they may ſay, that theſe lands did belong to the duke of York, and upon hearing, they may determine it; and we are to preſume they did determine truly, and not the contrary; for their court was armed with a ſufficient power, and did upon debate hear and determine this claim; and I think it hard to ſet aſide a verdict that was given upon ſo ſolemn a debate. For the queſtion before the truſtees was, whether the land in queſtion did belong to the late duke of York; and the truſtees, upon debate, adjudged it to have belonged to him; ergo, it is veſted in them; for I take it, that the forfeitures and other lands, *&c.* were at firſt veſted in the truſtees, only *ſub modo* or *debene eſſe*; that is until the ſame ſhould be diveſted by ſubſequent claims, ſo I ſay they were not abſolutely veſted at firſt; though I do agree, if the veſting clauſe had not come after the claiming clauſe, it had been plainer; but it is the office of the judges to marſhal clauſes in acts of parliament, ſo that all may beſt ſtand together; for they are to regiſter all the lands

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lands veſted, which they cannot do before they know what is veſted; but they did regiſter on a probable cauſe, and they did well in ſo doing, for then they were to claim; but in this caſe, as they would have it, it is the ſame thing whether they claim or not; for if the truſtees give it againſt them on a claim regularly heard, yet they may bring their ejectment, and try it over again at law, though the judgment of the truſtees was to be final. And this is like the notion ſome have of predeſtination, whether they do well or ill their fate is fixed and immutable. This court of the truſtees was compared to commiſſioners of bankrupts, which differs from it, becauſe this was a court of judicature; but if commiſſioners of bankrupts had power to enquire and determine of the eſtate of the bankrupt it would be the ſame. The truſtees had power by this act to reward diſcoverers, and it ſeems, by this ſpecial verdict, they gave £100 to this Mr. Anneſley; and how could they reward them before the title was made out? This defendant made out a title, which the truſtees thought was good, and paid the money of the publick for the ſame; and now they come at law, and ſay this was no true diſcovery; this ſurely would make this part of the act nugatory and idle; ſo that you muſt allow them a power to determine what was veſted, or elſe you make the act idle. By the claiming clauſe, any perſons having any title, eſtate, or intereſt, are to claim, and the truſtees are to determine; and their determination is final. Mr. Dixon has claimed, the truſtees have determined it, yet now we are at law; this, I think, is againſt the act, for the claiming, which is the ſaving clauſe in this act, is uſeleſs; becauſe, though I do not claim, yet I may have my remedy at law; and here Mr. Dixon is ſafe for the lands decreed for him, and there as to that he acquieſces; but as to the lands decreed againſt him, he ſues him; ſo it is ſtrange he ſhould be

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looſe and the publick bound. A claim I take to be a ſuggeſtion of an exemplification of a forfeiture, the determination of which is final: if that be ſo, then the perſons that determine the claim have power to determine what is veſted, and what not. For a power of hearing and determining carries in its nature a power of determining what is veſted; or elſe this power alſo will be nugatory; and this now will fall upon Engliſh proteſtant purchaſers, who ventured their money on the higheſt ſecurity this nation can give them, and who are not to have any equivalent, nor have they any warranty, covenant, or any other collateral remedy; ſo that they would be in a very miſchievous caſe, and they are thoſe that would only ſuffer. Whereas if the conſtruction I contend for be allowed, then nobody will ſuffer. And if the truſtees had an exorbitant power (which was abſolutely neceſſary in that kingdom to ſettle a peace there) it ſeems they made very good uſe thereof, for that there have been no claimers, or complaints againſt them; this Mr. Dixon being the only perſon, that I have heard, who thinks himſelf wronged. And for theſe reaſons, and becauſe of the great miſchief that I forſee will happen, if the eſtates of the purchaſers under this act be ſuffered to be queſtioned, I think the judgment given in B. R. in Ireland ſhould be reverſed.

Powel, juſtice. I think the judgment in Ireland ſhould be affirmed; and, I take it, there is but one ſingle queſtion in this caſe; and that is, whether the truſtees had a power to determine what was veſted in them? And for that I take it, that no land was veſted in the truſtees but what belonged to King James; and I take it, that their determining that the land did belong to him will not make it ſo. My brother Powis is right in ſaying it was neceſſary to ſettle Ireland in peace; but if this conſtruction would hold,

hold, it would be a way to kindle a new war there; if all the lands in that kingdom were veſted in ſeven perſons, and then to be diveſted by their claims, which, I believe, is what no man in England or in Ireland did ſuppoſe or imagine, when this act was made. I cannot tell where this act is given by the truſtees to determine what is veſted. Mr. Solicitor tells us it is in one place, and Mr. Attorney general in another place, and both my brother Powis's think it is every where, in every clauſe: and I confeſs I am ſo dull I cannot find it in any place. But my brother would have it veſted *ſub modo*; I cannot underſtand that; for if all the lands that A. had, which is our caſe, had been by act of parliament veſted in B. now nothing is veſted in B. but the lands which A. had. But if an act of parliament will veſt certain lands, as Blackacre and Whitacre, in certain perſons, there, thoſe lands are veſted in theſe perſons immediately, let the property have been in whom it will, becauſe every body is a party to an act of parliament, ſo no wrong to any perſon. But if only, as I ſaid, the lands of A. be to be veſted, then no other perſon's ſhall be veſted, and there is no need of a ſaving for any other perſon; and there muſt be an inquiſition, or ſome office, to find and aſcertain what lands A. had. Vide Plowd. 486. So is the opinion of Hob. Hutton, and Jones; 1 Jones 71 and 9. So, if in this caſe, King James was in by diſſeiſin, yet the right of the diſſeiſee was not veſted in the truſtees, but the diſſeiſee might claim the inheritance from them, becauſe the poſſeſſion was veſted in them; and ſo there was and might be a caſe where the inheritance might be claimed as well as incumbrances; but over an innocent perſon's eſtate they had no juriſdiction at all; ſo what they did in ſuch caſe was *coram non judice*. It was much inſiſted on, that the Crown was bound by the judgment of the truſtees, and the ſubject not; now, I do think,

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that neither the Crown nor the ſubject were any ways bound by any judgment of the truſtees, but where they had juriſdiction; and if the Crown had any prior or other right to theſe lands the truſtees allowed to Mr. Dixon, I cannot think the decree of the truſtees will, in that caſe, be concluſive to the Queen; for all the clauſes in this act of parliament depend upon the veſting clauſe. It was very fit they ſhould have proper means to find out what lands did belong to King James, and therefore the encouragement was given to diſcoverers; but if the truſtees were not well informed, and the lands did not belong to the late King James, *&c.* it was at the truſtees peril. I think the verdict is very fair, for I have heard of no fault that was found with it; and I hope the affirmance of this judgment will not be of ſuch ill conſequences as my brother apprehends.

Holt, C. J. I think the proceedings and decree of the truſtees in this caſe are void, and *coram non judice*; and that the leſſor of the plaintiff had a good title to enter. And I do agree with my brother Powel, that any other conſtruction of this act of parliament would be, inſtead of quieting Ireland, the ready way to have a new war there. It was intended the forfeited lands, and thoſe belonging to King James, ſhould be veſted in theſe gentlemen, in order to be ſold for the publick; and inſtead of this we would veſt all the kingdom in them; this would be a mad conſtruction. I know none of the truſtees, they may be honeſt gentlemen for ought I know; yet it would be very unreaſonable to give ſuch power. I believe the parliament would not thank us to give ſuch a conſtruction to their act. But it will be ſaid, the act is executed, and no hurt done, ſo this fear is needleſs. But I beg their pardon, for if all the lands in Ireland were veſted in them, then ſuch as have not claimed

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claimed are, by this conſtruction, in a very hard condition, for they are concluded by the ſaving clauſe. I take this act as it was made and intended, to have a very reaſonable conſtruction and interpretation. If King James had been a diſſeiſor, as my brother Powel ſaid, the poſſeſſion and defeaſible eſtate is veſted in the truſtees; if a forfeiting perſon had a right of action, or entry, this was veſted in the truſtees: but the poſſeſſion in the hands of an innocent perſon was undiſturbed by the act. So, if a forfeiting perſon had a condition, &c. and if tenant for life was a forfeiting perſon, this eſtate was in the truſtees, but not the reverſions or remainders; and he in reverſion and remainder need not claim, for there is no neceſſity to claim any thing but what is veſted. The perſons who are to claim are thoſe who had a right to the thing veſted before the 13th of February, 1688, as to the lands of the late King James. So much for the particulars of the act which, I take it, agrees with the whole. The truſtees had a ſufficient power over theſe lands that were to be ſold; and there was no reaſon or neceſſity to veſt any more in them. I muſt confeſs, I know not what is meant by a veſting *de bene eſſe*, or *ſub modo*; but I think the caſe put by my brother Powel, where the lands of A. are veſted by act of parliament, is very good law, and full to our preſent purpoſe; ſo I take the caſe of Terry and Huntington to be very full to this caſe. Suppoſe a formedon is brought in this court, and the demandant is barred; after he brings a formedon in the C. B. and the tenant pleads the judgment of this court againſt him, this is no bar; for the judgment here was *coram non judice*; for the admittance of the parties does not give a juriſdiction to the court. So if on an appeal for murder in the C. B. the defendant be condemned, it is penal in the ſheriff to execute it. So in the caſe of the marſhalſea, where their juriſdiction is limited to

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actions and alſo to perſons within the verge, *&c.* As to the miſchief to the purchaſers, I cannot think they are to be in a better condition, than thoſe who buy forfeitures every day, though truly, the purchaſers under the truſtees are in a better condition, for the truſtees had power to ſend for, keep, or deſtroy all their adverſaries deeds. This caſe was very learnedly argued by my brother Powis, Mr. Attorney, and Mr. Solicitor, yet I muſt confeſs I never conceived the leaſt doubt of the caſe, and I am ſtill very clear in it, that the judgment ſhould be affirmed *.

* As this eſtate of the duke of York, afterwards King James the ſecond, hath been ſeveral times mentioned in this work, and eſpecially in the foregoing caſe, it may not be amiſs to give ſome further account of it here, than what has been already mentioned in the former volume.

This eſtate then, being all the eſtates in Ireland of the regicides, was given by ſeveral grants from King Char. II. to the duke; which grants are dated as follows, to wit, July the 21ſt, 18th, Jan. 20th, 19th, Feb. 5th, 21ſt, June 8th, ditto, June 29th, ditto, April 3d, 30th, Feb. 3d, 30th, Feb. 18, 31ſt year of the reign of King Charles II. and all theſe eſtates were by the act of ſettlement, (except ſuch as are therein excepted) veſted and ſettled upon the duke of York, his heirs and aſſigns, freed and diſcharged (ſo long as the ſame remained in his or their poſſeſſion) from any new encreaſed rent, ſecurities and payments, in and by the ſaid act aſſeſſed, impoſed and reſerved; but with like benefit of repriſal, in caſe of reſtitution, as any adventurer or ſoldier might have; and with further benefit of repriſal, for ſo much of the premiſſes, as by virtue of the declarations and inſtructions in the ſaid act mentioned, or the ſaid act, ſhould be held by any ſoldier or adventurer; and if the duke or his heirs ſhould grant or alien any of the premiſſes, otherwiſe than by leaſe for lives or years, (upon which the full moiety of the improved rent ſhould be reſerved) then ſo much as ſhould be aliened or granted, ſhould be charged with ſuch rents and payments as other lands by the ſaid act were ſubject to.

And by the act of explanation, all the ſaid lands of the ſaid regicides (except ſuch as in the ſaid act of ſettlement and act of explanation are excepted) were to be and continue veſted in the ſaid James duke of York, and his heirs, as fully and amply as by the ſaid act is mentioned, diſcharged of all rents and ſecurities by the ſaid two acts reſerved, but ſubject to the ſame in caſe he or his heirs ſhould alien or demiſe the ſame, otherwiſe than for lives or years, reſerving the full moiety of the improved rent, *&c.* with a ſaving to the earl of Angleſea, as in the ſaid act is mentioned. See 14 and 15 Car. 2. c. 2. §. 194. and 17 and 18 ditto ch. 2. §. 48.

The

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The commiſſioners for the Iriſh forfeitures in 1688, conſidered this eſtate at the end of their report to the lords juſtices, 3d of June 1693, in the former volume, in a different manner from the reſt in the following concluſion.

We ſhall conclude (ſay the four commiſſioners who ſigned the report, to wit, Francis Anneſley, John Trenehard, James Hamilton and Henry Langford) by laying before your honours another grant of conſiderable value, which we are apprehenſive does not fall within the letter of our enquiry; but ſince the benefit of ſome forfeited leaſes or holdings are therein granted, we chooſe rather to lay the whole grant before you, than be thought deficient in executing any part of our duty.

And afterwards by the ſtatute 11 and 12 Will. III. ſeſſ. 2. c. 2. §. 10. 11. Eng. all the ſaid eſtate of which the ſaid King James the ſecond, or any in truſt for him, was ſeized or intereſted in at his acceſſion to the Crown of England, was veſted in the truſtees in the ſaid act mentioned, to be ſold and diſpoſed of to the uſes mentioned in the ſaid act, and was diſpoſed of accordingly. See the ſaid ſtat. and ſtat. 1 Ann. ſeſſ. 2. c. 21. Eng.

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No. 7.

A CASE determined in the court of Exchequer of Ireland, in the year 1768, between the earl of Sandwich, and others, Vice Treaſurers of Ireland, and his Majeſty's Attorney General, and Nathaniel Clements, and others, on a queſtion whether the Vice Treaſurers were to retain, to their own uſe, the poundage fee on a ſum of money raiſed in purſuance of a reſolution of the houſe of Commons, or vote of credit, or whether it ſhould be applied in aid of the ſupply and to the uſes of the public; the reſolution having been (contrary to uſage) ſilent therein.

The CASE upon the pleadings and the decree thereon were as follows.

No. VII. The bill.

THE bill filed the 26th of May 1763, ſet forth that his Majeſty by letters patent, dated at Dublin the 21ſt day of February, in the firſt year of his reign, granted unto the plaintiffs the office of Vice treaſurer, Receiver general and Pay Maſter general of all his Majeſty's revenue in this kingdom, with the uſual fee of ſixty five pounds thirteen ſhillings and four pence by the year, as alſo

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alſo the office of treaſurer at war there, and all rights, powers, fees, profits and caſualties to the ſaid office belonging, to hold to them and the ſurvivors and the ſurvivor of them, or their ſufficient deputy during pleaſure; and that his ſaid Majeſty did alſo thereby grant unto the plaintiffs for the executing of the ſaid offices, as long as they or any of them ſhould hold the ſame, the fee of ſixty five pounds thirteen ſhillings and four pence yearly; and all powers, judicial and miniſterial rights, fees and profits to the ſaid offices and every of them belonging; and did alſo grant unto the plaintiffs the fee of ſix pence Engliſh money, to be by them and their deputy taken and received out of every twenty ſhillings of like money, which they ſhould iſſue and pay to any perſon on his Majeſty's eſtabliſhments, for ſalary, entertainments, pay, ſubſiſtence, penſions, or other cauſes whatſoever, by virtue of the ſaid offices, or any of them; and that the plaintiffs were thereby impowered to take and detain the ſame for their own uſe, without any account to be thereof rendered to his Majeſty, his heirs and ſucceſſors; and that his Majeſty did thereby grant unto the plaintiffs, that the ſaid letters patent and every clauſe therein, ſhould be in all things moſt valid and effectual in the law to the plaintiffs, according to the tenor thereof, without any further confirmation or licence to be had from his Majeſty in that behalf; and alſo that the ſaid letters patent and every clauſe therein, as well in ſenſe and meaning as in words, ſhould be conſtrued to the beſt advantage for the plaintiffs, according to the purport thereof. And that by an act of parliament paſſed in this kingdom in the thirty third year of the reign of his late Majeſty King George II. the ſeveral additional duties therein mentioned were granted to be applied for the payment of an intereſt of four pounds by the hundred by the year, for ſuch ſums not exceeding

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exceeding £150,000, as ſhould be paid into the treaſury, for the purpoſes therein mentioned, and towards the diſcharge of the ſaid principal ſums. And it was thereby enacted, that neither the ſix pence by the pound, nor any fee, ſhould be demanded or received by the vice treaſurer, or any other officer of this kingdom, out of the aids thereby granted, or any payment to be made thereout in purſuance of the ſaid act. And that ſubſequent to the paſſing the ſaid act, the Houſe of Commons of this kingdom the ſame ſeſſion of parliament, that is to ſay on the 23d day of February 1760, reſolved that whatever ſums, not exceeding £300,000, ſhould be paid into the treaſury, at the inſtance of the chief governor for the time being, to ſupply ſuch deficiencies as might ariſe in the aids granted that ſeſſion, for the ſupport of the civil and military eſtabliſhments, and for the defence of this kingdom, for two years, from the 25th day of December 1759, ſhould be made good by them, with an intereſt at the rate of five pounds by the hundred, by the year, to be computed from the reſpective times ſuch ſums ſhould be advanced, out of ſuch aids as ſhould be granted the next ſeſſion of parliament; and that upon the credit of the ſaid act of parliament the ſum of £150,000 was raiſed, as alſo the further ſum of £150,000 upon the credit of the ſaid reſolution; and that the ſaid ſums were paid into the treaſury in the year 1760, and were iſſued at the treaſury for the public ſervice, and were paid to perſons on the civil and military eſtabliſhment, purſuant to the ſaid act and reſolution, while the plaintiffs held and were entitled to the ſaid offices by virtue of the ſaid letters patent. And that by an act of parliament afterwards paſſed in the ſecond year of his preſent Majeſty, entitled an act for granting a further additional duty on wine and other things therein mentioned, and for the better ſecuring the

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the re-payment of the ſum of £150,000 paid into the treaſury, purſuant to the acts of the then preceding ſeſſion, together with the intereſt thereof, the ſaid reſolution is eſtabliſhed, and further additional duties granted; which ſaid further additional duties are directed to be applied to pay an intereſt of £5 by the hundred per year, on the ſums which had been already borrowed, amounting to the ſum of £350,000, and then remaining unpaid; and alſo the like intereſt for ſuch further ſums not exceeding £400,000, as ſhould be paid into the treaſury at the inſtance of the Chief governor for the time being, to ſupply ſuch deficiencies as might ariſe in the aids granted in the then ſeſſion of parliament, for the ſupport of the civil and military eſtabliſhments, and towards the diſcharge of ſuch principal ſums as had been then already borrowed, and of ſuch ſums as ſhould be borrowed for the purpoſes aforeſaid. And it was thereby further enacted, that neither the ſixpence by the pound, nor any other fee, ſhould be payable to or received by the vice treaſurer or any other officer of this kingdom, out of the aids thereby granted, or of any payment to be made thereout in purſuance of that act. That after the granting the ſaid letters patent, the plaintiffs appointed the defendant, Nathaniel Clements, their deputy, and duly impowered him to receive, for the plaintiffs uſe, all fees and profits which ſhould become due under the ſaid letters patent, and which of right ought to be paid or anſwered to the plaintiffs, or any of them; and that the ſaid Clements, as the plaintiffs deputy, received and retained the poundage fee upon the ſaid ſum of £150,000, paid into the treaſury upon the credit of the ſaid reſolution of the 23d day of February, 1760, amounting to £3,750, and to which the plaintiffs become entitled under the ſaid letters patent. That the plaintiffs often applied to the

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ſaid Clements to pay over to them the ſaid ſum of £3,750 ſo received by him for ſuch poundage fee as aforeſaid, which the ſaid Clements refuſed to do, pretending the ſaid defendant, Philip Tiſdall, on behalf of his Majeſty, claimed the ſaid poundage fee, and threatened to make the defendant, Clements, account for the ſame to his Majeſty, if he paid over the ſame, or any part thereof, to the plaintiffs. And the plaintiffs inſiſted that under the ſaid letters patent they were juſtly entitled to the ſaid poundage fee of the ſaid ſum of £150,000, ſo received by the ſaid Clements, and that they were not accountable for the ſame to his Majeſty; for that the plaintiffs, under the ſaid letters patent, had a right to retain ſuch poundage upon all the iſſues of the revenue in this kingdom, during the time aforeſaid; and the ſaid ſum of £150,000 being part of the ſaid revenue, and having been iſſued, and the ſaid poundage fees taken, before the ſaid act of parliament of the ſecond year of his preſent Majeſty for granting duties, to repay the creditors of the publick, had paſſed the ſaid clauſe in the ſaid act, directing the vice treaſurer not to deduct the poundage on the monies ariſing by the aids thereby granted for repaying the ſaid ſum of £150,000, could not nor ought to operate without expreſs, retroſpective words to compel a refunding of lawful fees, previouſly due and actually retained, upon monies iſſued and actually applied out of the ſaid loan itſelf; and the rather as in the ſaid laſt mentioned act, where ſuch accounting for the ſaid fees was intended, proviſion is made in expreſs words "that the vice treaſurer ſhould account for the ſame." And as an evidence that it never was intended that the ſaid poundage fees ſhould be refunded, the plaintiffs charged that the ſaid two ſums of £150,000 each, raiſed by virtue of the ſaid act of the 33d year of his late Majeſty, King George IId, and upon the credit of the ſaid reſolution of the

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the ſaid 23d day of February, 1760, were accounted for in the publick accounts for two years from Lady day, 1759, to Lady day, 1760; in which accounts the plaintiffs were charged, and the kingdom had credit for the poundage of the ſaid ſum of £150,000, which was borrowed in purſuance of the ſaid act of the 33d year of the reign of his late Majeſty, and alſo for the poundage of ſaid poundage; but that there was not any credit given by the plaintiffs to the publick, in the ſaid accounts, for the poundage of the ſaid ſum of £150,000, raiſed upon the credit of the ſaid reſolution of the 23d day of February, 1760, nor in the accounts of the Accountant general. And the ſaid accounts were laid before and paſſed by the ſeveral committees of accounts, of ſupply, and of ways and means, of parliament, which two laſt committees are committees of the whole houſe; and that the reports of the ſaid ſeveral committees were agreed to without any objection, for the not accounting for the ſaid poundage fees, in any of the ſeveral ſtages through which the ſaid accounts had paſſed; and therefore inſiſted they ought not, under the ſaid ſeveral circumſtances, to give the nation credit for the ſaid poundage of the ſaid ſum of £150,000, raiſed upon the credit of the ſaid reſolution of the 23d of February, 1760, but that the defendant, Clements, ought to pay the ſame to the plaintiffs. And the plaintiffs prayed that the ſaid Clements might be compelled to come to an account with them for all the poundage fees and money received by him as the plaintiffs deputy, on account of the ſaid ſum of £150 000, raiſed upon the credit of the ſaid reſolution of the 23d day of February, 1760, and that he might be decreed to pay the plaintiffs what ſhall be found due to them on the ſtating of the ſaid account.

No. VII. Anſwers.

The defendants anſwered the bill, and admitted the letters patent as ſet forth therein; alſo the ſtatute in the 33d year of his late Majeſty's reign; alſo the reſolution or vote of credit ſubſequent thereto, in the bill mentioned; as alſo all the other charges in the ſaid bill; ſave that he believed, it was the intention of the legiſlature, when the laſt mentioned act was paſſed in the ſecond year of his preſent Majeſty, that the publick ſhould have credit for the ſixpence in the pound on the ſaid ſum of £150,000, though there were not any retroſpective words in the ſaid act of parliament, compelling the vice treaſurer to refund the fees or poundage retained upon money iſſued out of the loan in purſuance of ſaid reſolution; and that there are contained in the ſaid act of the laſt ſeſſion, granting duties to the Crown, ſuch clauſes as therein mentioned; but as theſe are matters of doubt and conſequence to the publick, ſubmitted the ſame to the conſideration of the court.

Amended bill.

And after the ſaid anſwers were filed, the plaintiffs on or about the 8th day of December, 1764, cauſed their ſaid bill to be amended, by charging that they, by virtue of the ſaid letters patent, became poſſeſſed of the ſaid offices, and in due time qualified themſelves to hold the ſame, as the laws in that caſe require; and that the ſaid ſeveral ſums were iſſued at the treaſury for the publick ſervice, and were paid to perſons on the civil and military eſtabliſhments, purſuant to the act and reſolution, while the plaintiffs held and were entitled to the ſaid offices by virtue of the ſaid letters patent.

Anſwers thereto.

And the defendants ſeverally anſwered the ſaid amended bill, and therein admitted the ſeveral further matters

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Hearing and decree.

matters and charges therein. Whereupon, the ſaid cauſe having come on to be heard, it was, on the 19th day of November, 1768, ordered, adjudged, and decreed, by the right honourable the Chancellor, Treaſurer, Lord Chief Baron, and the reſt of the barons of his Majeſty's court of Exchequer in Ireland, that the plaintiffs were entitled to the ſaid poundage fee or ſum of ſixpence in the pound, for or on the ſaid ſum of £150,000, amounting to the ſaid ſum of £3,750 ſterling; and that the defendant, the right honourable Nathaniel Clements, do forthwith pay the ſaid ſum of £3,750 to the plaintiffs or their order, and that the plaintiffs do accordingly make up and enrol the decree, but without coſts on either ſide; for the due performance whereof, the proceſs of this court ſhould, from time to time, iſſue, as in ſuch caſes uſual.

Reaſons.

As this was a matter of no ſmall importance, it may not be amiſs to mention here what the opinions were of ſome of the principal lawyers of the two kingdoms, who were conſulted thereon. They were of opinion, that the ſixpence in the pound, ariſing to the Vice treaſurers by virtue of their patent, is not paid by the Crown, or out of the publick revenue, but is paid by thoſe who receive money out of the treaſury. That it is due by uſage and by the patent out of all ſums iſſued at the treaſury, where no particular law takes away the right. That as to all payments made out of the old revenues, this fee is (as much as all other private rights are) out of the reach of parliament. But that when a new revenue is granted, it may be granted on terms, and conſequently the payments to be made out of the new revenue may be exempted from the poundage of the Vice treaſurer, or that poundage money be given to the publick; but where that is not done the fee is due, the right not depending on the fund

out

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out of which the payment is made, but on the making of the payment. That the vote of the 23d of February, 1760, did not take away the right, in that it was quite ſilent. And the act of the ſeſſion of 1761 extended only to payments thereafter to be made out of the aids then granted; wherefore the Vice treaſurers had a right, as matters then were, to poundage on all the money borrowed on the vote of credit of 1760, that was iſſued at the treaſury before the ſeſſion of parliament of 1761.

For the ſame reaſons, and on the ſame principles, the Vice treaſurers apprehended they were entitled to the poundage of other ſums taken up under the ſame vote, and eſpecially of the ſum of £50,000, taken up on the 1ſt day of April, 1761, and before the act had paſſed as aforeſaid; but as the reſolutions of the committees of ways and means of 1759 and 1761 plainly ſhewed that the fees that might be due in conſequence of the aids that were intended to have been granted in thoſe ſeſſions, were to have been applied to the uſes of the publick, and that the caſe in queſtion was omitted by inattention out of the vote and ſubſequent act of parliament, and though this circumſtance could not legally affect the right, yet it was apprehended that ſhould further demands be made by the Vice treaſurers, it might induce the parliament to take the matter up in the next ſeſſions; wherefore it was thought prudent to reſt on the demands which had been made. I was concerned on the ſuit for the plaintiffs the Vice treaſurers.

As the following report, as alſo the method for accounting for the loan duties in the Houſe of Commons, with the tranſcripts of ſeveral other papers relating to the matter in the aforeſaid decree, may further illuſtrate it, I have thought proper to inſert them.

The

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The REPORT of the commiſſioners of accounts to the lords juſtices, on the * caſe and memorial of George Dodington, eſq; clerk of the pells, referred to them by his grace the Lord Lieutenant, and reſpecting the poundage fees received by him on ſeveral payments iſſued out of the Exchequer.

To their Excellencies the Lords Juſtices General and General Governors of Ireland.

May it pleaſe your Excellencies,

IN obedience to his grace the Lord Lieutenant's order of reference, bearing date the 29th day of April 1734, directing us to examine the allegations of the memorial

* The memorial and caſe on which this report was founded, has been by ſome accident miſlaid; but I find in a volume of the journals of the houſe of Commons, that on the 3d of November 1733, a petition was preferred to the houſe upon the ſame occaſion, by Mr. Doddington, wherein he ſet forth, that he was informed that by the accompts laid before the houſe, he was charged with the fees payable to the clerk of the pells, out of the additional duties granted to his then Majeſty, by two ſeveral acts paſſed in this kingdom, in the 3d and 5th years of his Majeſty's reign, for granting and continuing to his Majeſty an additional duty on beer, ale, ſtrong waters, wine, tobacco and other goods and merchandizes therein mentioned; that the petitioner conceived the ſaid charge induced upon him, had been grounded on the conſtruction of ſome general words in the ſaid acts, which neither did nor were intended to deprive him of his ſaid fees, which he and his predeceſſors in the ſaid office had conſtantly received; and praying that foraſmuch as the profits of the petitioner's office had no way encreaſed during his time, and that no other perſon but the petitioner was to be affected by ſuch conſtruction, that the houſe would take his caſe into their favourable conſideration, and be pleaſed to direct that he might enjoy his ſaid office in the ſame manner, that he and his predeceſſors had ever done, or to grant him ſuch other relief as to this houſe ſhould ſeem meet.

There does not appear to have been any further proceedings upon this petition in the houſe of Commons, ſo that it is likely the memorial to government was eſteemed the proper mode of application, and that the contents of it and of the petition were the ſame.

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and annexed caſe of George Dodington, eſq; clerk of the pells in this kingdom, and to report a true ſtate of the caſe, together with our opinion what is proper to be done therein,

We have conſidered the ſeveral facts and allegations contained in the ſaid memorial and caſe, and find by an entry of a patent in the Auditor general's books, that his late Majeſty King George I. by his letters patents under the great ſeal of this kingdom, bearing date the 9th day of November, in the ſecond year of his reign, (anno 1715) did grant unto George Dodington, eſq; and his aſſigns, the office of clerk of the pells in this kingdom, to commence immediately at and from the death of Theophilus Butler, eſq; or other ſooner determination of a former grant of the ſaid office to the ſaid Theophilus Butler, during the lives of George Bub, nephew of the ſaid George Dodington, and Gilford Killigrew, eſqrs. and the ſurvivor of them, together with all ſalaries, fees, profits and advantages whatſoever, to the ſaid office belonging, in as full and ample manner as the ſaid Theophilus Butler or any other perſon or perſons had before held and enjoyed the ſame, or which by antient or late uſage or cuſtom is due or appertaining to the like office in Great-Britain; as alſo with the ſalary or allowance of five ſhillings a day, lawful money of Great-Britain.

We find alſo that there is a ſalary of £30 per annum annexed to the ſaid office, on the eſtabliſhment for civil affairs for this kingdom, which is and has been conſtantly paid to the clerk of the pells; and we do not find that the ſalary or allowance of five ſhillings a day, granted by the patent, hath been at any time received or demanded by the preſent clerk of the pells, or any of his predeceſſors for

for many years paſt; as by the affidavit of John Bayly, preſent deputy clerk of the pells which is hereunto annexed, No. 1. No. VII.

We find that the ſaid George Bubb mentioned in the patent, (and who now bears the name of Dodington) is the perſon actually in poſſeſſion of the ſaid office, as ſet forth in the ſaid memorial.

We find that the clerk of the pells has conſtantly received one penny and one fifth per pound, upon all payments iſſued out of the Exchequer, except payments to diſcharge the intereſt and principal of the loan, and for the encouragement of tillage and navigation of this kingdom, which ariſe out of funds particularly appropriated for ſuch purpoſes, the additional pay of the army, and the expence of carrying the army's baggage, which have been conſtantly iſſued and paid purſuant to the exceptions in ſeveral acts of parliament mentioned, without any fee taken by the clerk of the pells; and alſo excepting the payments to the Lord Lieutenant, lord chancellor, judges, and other officers, from whom the ſaid fee has not uſually been received, as appears by the ſaid affidavit.

We find that by an act paſſed in the ſecond year of the reign of the late Queen Anne (anno 1703) ch. 4. entitled an act for continuing the additional duty of exciſe on beer, ale, &c. it is enacted, "that the ſix pence per pound "payable to the vice treaſurer or pay maſter general of "this kingdom, and all other fees payable out of the aids "given to her Majeſty, ſhould be employed in and applied "to the building of barracks in the city of Dublin."

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But we find by the ſaid affidavit, that the then clerk of the pells did not account for, nor was he charged with the payment of his ſaid fee of one penny and one fifth per pound in purſuance of the ſaid act.

We find that by an act paſſed in the ſecond year of his late Majeſty King George I. (anno 1715) ch. 3. entitled an act for granting to his Majeſty an additional duty on all wines, ſtrong waters, &c. it is enacted, "that the ſix "pence per pound payable to the Vice treaſurer or Pay "Maſter general of this kingdom, and all other fees pay- "able out of the aids granted to his Majeſty that ſeſſion of "parliament, ſhould be employed in and applied to the "carrying on and finiſhing the public buildings in the "caſtle of Dublin.

But it alſo appears to us by the ſaid affidavit, that the then clerk of the pells did not account for, nor was he charged with the payment of his ſaid fee of one penny one fifth per pound, in purſuance of the ſaid act.

We do not find that the ſix pence per pound, or any other fees that might ariſe by or out of the aids granted to the Crown, are mentioned in any of the acts of parliament that paſſed between the ſeſſion of the ſaid year 1703 and the ſaid year 1715.

We find by the votes of the houſe of Commons, printed by order of the ſpeaker, that one of the reſolutions propoſed by the committees for raiſing ſupplies to be granted to his Majeſty, in each of the ſeveral ſeſſions of parliament, held in the years 1717, 1719, 1721, 1723, 1725, 1727, 1729, and 1731, and agreed to by the houſe, was

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to the following effect, viz. " that the ſix pence per " pound and all other fees payable by the aids granted, " be applied towards the ſupply," as appears by the copy of the ſaid ſeveral reſolutions, No. 2.

And it alſo appears to us, that the clauſes in the ſeveral acts of parliament for granting aids unto his Majeſty, founded on the foregoing reſolutions, and enacted in the ſeveral reſpective ſeſſions of 1717, 1719, 1721, 1723, 1725, and 1727, mention the Vice treaſurer's fees only; as appear by the copies of the ſaid clauſes, in the ſaid ſix ſeſſions hereunto annexed, No. 3, but in the two next ſeſſions of 1729 and 1731, the clauſes in the acts in purſuance to the ſame reſolutions, mention the fees of other officers, and differ from thoſe in the preceding ſix ſeſſions, by the inſertion of the words " or any other officer or officers," as appears by a copy of the ſaid clauſes hereunto annexed, No. 4.

We find by the printed votes, that the reſolutions propoſed by the committee for raiſing a ſupply to be granted to his Majeſty, in the ſeſſion of parliament held in the year 1733, and agreed to by the houſe, was to the following effect, " that the ſix pence per pound and all " other fees which may be payable to the Vice treaſurer, " out of the aids thereby granted, ſhould be applied " toward the ſupply;" which differs from the former reſolution, and mentions the Vice treaſurer's fees only, as appears by a copy thereof hereunto annexed, No. 5.

And we find that the clauſe in the act paſſed in the ſaid ſeſſion of 1733, purſuant to the ſaid reſolution, differs from the clauſes of the two former ſeſſions of 1729 and 1731, by leaving out the words " or any other officer or

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officers," in the ſame manner as in the ſix before mentioned ſeſſions of 1717, 1719, 1721, 1723, 1725, and 1727; as appears by a copy of the ſaid clauſe in the ſaid act hereunto annexed, No. 6.

We find there are two clauſes in the act of parliament paſſed in the ſeſſion of 1733, for granting a ſupply to his Majeſty, agreeable to thoſe mentioned in the memorialiſts caſe, viz. one relating to the Vice treaſurer's fees, and applying them to the uſe of the public, which has been before taken notice of; and the other, relating to the additional pay of the army, which is thereby directed to be paid without any deduction on account of poundage to the Vice treaſurers, pells, hoſpital money, or any other deduction whatſoever, out of their arrears, ſubſiſtance, or cloathing money; as appears by the copies of the ſaid two clauſes hereunto annexed, No. 7.

We find the proceedings in the money bill paſſed in the ſeſſion of parliament, held in the year 1729, to have been as appears by the annexed copy of the printed votes relating to the ſaid money bill, No. 8.

We find alſo the proceedings in the money bill, paſſed in the ſeſſion of parliament, held anno 1731, to have been as appears by the annexed copy of the printed votes relating to ſaid money bill, No. 9.

Upon the beſt enquiry we can make, we do not find that any other officer or officers are or can be affected by the ſaid acts of parliament of 1729 and 1731, except the Vice treaſurers and the clerk of the pells.

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Upon the whole of this matter we beg leave to inform your excellencies, that there being no words in any of the acts of parliament, from the year 1715 to the year 1729, which did as we apprehend include the clerk of the pells, he has not been charged on account of his fees out of the additional duties granted during that time; but that we apprehending him to be included in the acts of 1729 and 1731, under the general words "any other officer or officers," upon paſſing the accounts of the Vice treaſurer to Lady day 1734, have ordered them to be charged with the ſum of £3418 10*s.* 3½*d.* by way of inſuper for the fees of the clerk of the pells, out of the additional aids granted by the ſaid two acts *.

All which is humbly ſubmitted to your excellencies conſideration.

Feb. 17, 1734.

Wyndham, C.
H. Boyle,
T. Marlay,
J. St. Leger,
J. Wainright.

(a true copy)

* It does not appear that the clerk of the pells ever had any recompence for this poundage.

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No. 1. The AFFIDAVIT of John Bayly.

THIS day John Bayly of the city of Dublin, gent. came before me and made oath, that he hath carefully examined all the Vice treaſurer's accounts, paſſed by the commiſſioners of accounts from time to time, from Chriſtmas 1702 to Lady day laſt 1734, and that no receipt or ſum of money whatever is brought to the credit of the nation, in any of the ſaid accounts, as received from the clerk of the pells, for the uſe of the public, on account of a tax laid or ſuppoſed or intended to be laid on the ſaid clerk of the pells, on account of the fees ariſing to the ſaid officer, by the additional duties granted from time to time to the Crown, by the parliament of this kingdom, from Chriſtmas 1729, and that he the ſaid deponent verily believes, that no ſum or ſums of money on ſaid account were ever accounted for to the public; and further, that this deponent verily believes, no demand was ever made on the ſaid clerk of the pells, on the ſaid account, by any officer or officers, perſon or perſons whatſoever, on behalf of the Crown, purſuant to any act or acts of parliament, that were paſſed or in force in this kingdom, from ſaid Chriſtmas 1702 to ſaid Chriſtmas 1729. His reaſon of his ſaid belief is, that he has been employed in the treaſury above twenty five years laſt paſt, of which he has been eight years deputy clerk of the pells; and that he never heard of any ſuch demand being made. And this deponent further ſaith, that he never heard nor does he believe that the preſent clerk of the pells ever received or demanded more than £30 per annum ſalary of the Crown, purſuant to the ſeveral eſtabliſhments of civil affairs, notwithſtanding that he is allowed five ſhillings per diem by his patent; and that he has ſearched the books remaining as

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of record, in the pells office, for above forty years back, and that no other falary but the ſaid ſum of £30 per annum, allowed by the eſtabliſhment, appears to have been iſſued or paid to any clerk of the pells within that time; and further, that the clerk of the pells has conſtantly received upon all payments iſſued out of the Exchequer, a fee of one penny and one fifth per pound, except payments excepted by act of parliament, viz. payments on account of the intereſt and principal of the loan, and for the encouragement of tillage and navigation, which ariſe out of the funds particularly appropriated for thoſe purpoſes, the additional pay of the army, and the expence of carrying the army's baggage, all which have been conſtantly iſſued and received, without any fee received or demanded by the clerk of the pells; and alſo excepting all payments to the Lord Lieutenant, Lord chancellor, judges, and other officers, who have not uſually paid the ſaid fee, and that the ſaid payments ſo excepted do upon a computation thereof, amount one year with another to above £60,000 per annum; and further ſaith not.

Jurat. coram me 17 Feb. 1734.

John Bayly. Thomas Marlay.

(a true copy.)

No. 2. Reſolutions in the Committee for ſupply, and agreed to by the Houſe of Commons in the following Seſſions of 1717, 1719, 1721, 1723, 1725, 1727, 1729, and 1731.

Seſſion 1717 printed votes of 2d October 1717, pa. 106.

Reſolved that it is the opinion of this committee that the ſum of 6*d.* per pound and all other fees which ſhall or may be payable out of the aids granted this preſent ſeſſion of parliament, be applied towards raiſing the ſupply granted to his Majeſty.

Seſſion

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Seſſion 1719, printed votes of 4 Aug. 1719, page 110.	The ſame verbatim.
Seſſion 1721, printed votes of 18 October 1721, page 98.	The ſame verbatim.
Seſſion 1723, printed votes of 17 October 1723, page 90.	The ſame verbatim.
Seſſion 1725, printed votes of 28 October 1725, page 58.	The ſame verbatim.
Seſſion 1727, printed votes of 15 January 1727, page 96.	The ſame verbatim.
Seſſion 1729, printed votes of 13 November 1729, page 78.	The ſame verbatim.
Seſſion 1731, printed votes of 8 November 1731, page 71.	The ſame verbatim.

Memorandum. The aforeſaid reſolutions were all written at length in the original report, ſigned by the commiſſioners of accounts, but the firſt is inſerted at length, and all the ſucceedings ones were verbatim the ſame.

The other matters referred to in the foregoing report, from No. 2. to No. 9. being extracts from the acts of parliament, and votes therein mentioned, are for brevity ſake omitted.

A STATE

A STATE of the Vice treaſurer's POUNDAGE FEE, which ought to be accounted for to the publick and paid into the treaſury at and upon Lady day 1731. No. VII.

	l.	*s.*	*d.*
The Vice treaſurer's poundage on the additional duties was paid at Lady day 1731 into the treaſury up to Chriſtmas beforegoing 1730, which completed the full ſum of £39,047 19 3½, being the amount thereof the commencement, viz. 21ſt Nov. 1717; but there remains ſtill to be paid into the treaſury, to complete £39,552 14 10, to Lady day 1731, being the amount of the quarter from Chriſtmas 1730 to Lady day 1731, the ſum of — — —	504	15	6½
Alſo by the Accountant general's way of reckoning, the poundage of ſaid £39,552 14 10, being the poundage fee from 21ſt Nov. 1717 to Lady day 1731, this poundage of the poundage being an additional aid alſo, but never thought of till now — —	988	16	4½
As alſo the poundage of the £150,000 loan, borrowed by act of parliament at Chriſtmas 1729, it being an additional aid, but was at firſt omitted in the account of the poundage made to Lady day 1731 — —	3750		
Carried over	5243	11	11½

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	l.	s.	d.
Carried over	5243	11	11¼
As alſo the poundage of ſaid £3750 poundage, the ſame being a further additional aid; but quære, why did not the Accountant general charge this ſum in his account to parliament as well as the £988 16 4½ above —	93	15	
So total remaining due to be paid in to complete to Lady day 1731 —	5337	6	11¼

Memorandum, part of ſaid £5337 6 11¼ was paid in ſince Lady day 1731.

16th March, 1731,
J. B. (a true copy.)

Amount

Amount of the Poundage of Additional Duties and the Poundage of the Loan from 21ſt Nov. 1717 to Lady day 1733. No. VII.

				l.	*s.*	*d.*
Received on account of the poundage of the additional duties from 21ſt Nov. 1717 to Dec. 1724				24115	13	4
Received more from 25th Dec. 1724 to 7th June 1725				1700		
from 7th June 1725 to Chriſtmas following				1600		
from Chriſtmas 1725 to Lady day 1727				3879	13	0¾
In one year, from Lady day 1727 to Lady day 1728	2700					
from Lady day 1728 to Lady day 1729	2000					
				4700		
to Lady day 1730	2000					
to Lady day 1731	1052	12	10½			
				3052	12	10½
to Lady day 1732	6851	13	10¾			
to Lady day 1733	6298	11	1			
				13150	4	11¾
Total received at Lady day 1733				52198	4	3
Due from the Vice treaſurer to complete to Lady day 1733, but not received till afterwards				666	16	4¾
Total amount of the poundage of the additional duties from 21ſt Nov. 1717 to Lady day 1733				52865	0	7¾

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The Pells fee of Additional Duties for Four Years, from Chriſtmas 1729 to Chriſtmas 1733, Dr.

	l.	s.	d.
Old additional duties —	494578	7	3⅝
Loan duties — — —	51552	7	8¼
Linen duties — —	24997	18	11¾
New loan of £150,000 paid in at Chriſtmas 1729 — — — —	150000		
A further new loan of £100,000 was paid in at Chriſtmas 1731 — —	100000		
	821,128	13	11⅝
Pells fee at 1½d. on contra £680,300 11 3⅞	3401	10	1½
Pells on ſaid pells — —	17	0	1¾
Which makes the total charge on the Clerk of the pells at Chriſtmas 1733 when the act of parliament for taxing him ceaſed — —	3418	10	3¼

Contra, - - - - - Cr.

	l.	s.	d.
By additional ſubſiſtence to the army	65468	5	10
Baggage money — —	2771	14	4
Loan — — —	72588	2	5¾
Total craved credit for	140828	2	7¾
Balance ſubject to the re-payment of the pells fee — — —	680300	11	3⅞
	821128	13	11⅞

The

The method of accounting for the loan duties in the Houſe of Commons of Ireland, which will further illuſtrate the aforeſaid queſtion.

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THE firſt money borrowed by parliament in Ireland was £50,000, in the year 1715. This money, and the intereſt of it, was provided for in the ſame bill by which the old aids or additional duties were granted, until the year 1729; when £150,000 having been borrowed, for the firſt time, there were then diſtinct bills for theſe different purpoſes; and thus they have continued ever ſince. So that here was the firſt loan bill, by which, if there was any ſurplus of the duties therein appointed for the payment of the intereſt, it was appropriated to remain in the hands of the Vice treaſurer for the payment of the principal ſum; but there was no direction in that act for keeping a ſeparate account of thoſe duties from the ordinary revenue.

But in the year 1731 £100,000 more having been borrowed, which made the debt £300,000, and the ſame duties appropriated, a ſeparate account was ordered to be kept of thoſe as well as all other appropriated duties, by a ſtat. 5 Geo. II. in which is the following clauſe:

"And be it further enacted, by the authority aforeſaid, "that from and after the ſaid 25th of December, 1731, "a ſeparate and diſtinct account ſhall be kept by the "proper officers, of the aids, duties, and taxes, granted by "this act, or any other act of parliament now in force in "this kingdom, and appropriated to particular uſes; and "the

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" the commiſſioners of his Majeſty's revenue, in their " abſtracts, ſhall return an account of the ſeveral duties " and taxes ſo appropriated; and that every collector and " receiver of the ſaid duties and taxes do take a ſeparate " receipt for the ſame, when paid into his Majeſty's trea- " ſury, which ſaid receipt the Vice treaſurer or Vice " treaſurers, his or their deputy or deputies, is and are " hereby required to give accordingly."

And in all the ſaid acts before the year 1729, in which they were ſo incorporated, there is a clauſe in the following words:

" And be it further enacted, by the authority aforeſaid, " that the ſixpence per pound, and all other fees which " ſhall or may be payable to the Vice treaſurer or Vice " treaſurers, Pay maſter, or Receiver general, for, or on " account, or out of the aids hereby granted to your Ma- " jeſty, other than and except ſuch part thereof as is " herein after appointed to be paid to the truſtees of the " hempen and flaxen manufactures of this kingdom, ſhall " be received by the ſaid Vice treaſurer or Vice treaſurers, " Receiver, or Pay maſter general, for the uſe of your " Majeſty, his heirs and ſucceſſors, during the term afore- " ſaid, and ſhall be duly accounted for by him or them to " your Majeſty, your heirs and ſucceſſors, as a further " additional aid, and hereby given and granted."

Which clauſe hath been in all the acts which have been ſince for the additional duties (now uſually called the money bills), ſince they and the loans have been ſo in ſeparate bills as aforeſaid.

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And in the ſaid bill in 1729, and in all the loan acts which have been ſince, the following clauſe was and has been inſerted.

" And be it further enacted by the authority aforeſaid, " that neither the ſix pence per pound, nor any other fee " ſhall be payable to, or be deducted or received by the " Vice treaſurer or Vice treaſurers, receiver or Pay Maſter " general, clerk of the pells, or any other officer or officers " of this kingdom, for or on account of or out of the " aids hereby granted to your Majeſty, or of any payment " to be made thereout in purſuance of this act."

But here it is to be obſerved, that the ſaid clauſe which was in all the ſaid acts before the year 1729, in which the two grants were ſo incorporated, is previous therein to that part of the act which relates to the loan, which, though in the ſame act, ſeems to be an entire diſtinct matter, and as ſuch begins with a new recital; and it is alſo to be obſerved, that the clauſe which has been in all the loan acts ſince the ſaid year 1729, is entirely different from the clauſe which was in the acts before the ſaid year 1729, when the two grants were in one and the ſame act; and the ſaid clauſe in the loan acts is but merely reſtrictive upon the Vice treaſurers from taking any fees upon the aids thereby granted.

But notwithſtanding the ſaid clauſe in all the ſaid acts before the year 1729, by which the poundage therein mentioned is to be accounted for as an additional aid, *&c.* yet it does not appear by the accounts in the printed journals, that the Vice treaſurers of Ireland ever gave any credit in the accounts of the nation, for the poundage of the

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the additional duties, or that they were brought into account until the year 1725, when it appears that the then Vice treaſurer, captain John Pratt, was charged with the whole poundage thereof, from the year 1717, (which year in an account herein after mentioned is ſaid to be the commencement of ſaid poundage,) to midſummer 1725, amounting to £25911 12s. 4d. as appears by the printed journals, vol. 5. pa. 295.

And afterwards in the year 1731, the Vice treaſurer is not only charged with the poundage of the ſaid additional duties, but alſo with the poundage of the loan, and with the poundage of the poundage of each, as appears by the journals, vol. 6, but more eſpecially by an account in the treaſury in the year 1731, entitled, "a ſtate of the "Vice treaſurer's poundage which ought to be accounted "for to the public, and paid into the treaſury at and upon "Lady day 1731," in which account the ſaid poundage is taken up but from the year 1717, which year, it is there ſaid, is the commencement of it alſo; and it is alſo there ſaid, that the poundage of the poundage of the additional duties, is an additional aid, but never thought of till then, and the poundage of the poundage of the loan is alſo there ſaid to be a further additional aid; and the ſaid accounts have ever ſince been carried on in the ſame manner.

By ſtat. 5 Geo. II. diſtinct accounts to be kept of the aids, &c.

And by an act paſſed in the ſaid year 1731, 5 Geo. II. it is enacted, that a ſeparate and diſtinct account ſhall be kept by the proper officer, of the aids, duties and taxes, granted by that or any other act then in force in the kingdom, and appropriated to particular uſes.

And

And on the ſixth of November 1733, it was ordered by the Houſe of Commons, that the proper officer ſhould lay before them an account of the ſix pence per pound on the additional duties, from the 25th of March 1715, to the 25th of March 1733, diſtinguiſhing each two years, as appears by their journals; and it alſo appears by their journals, that on the 9th of November 1773, Mr. Gardiner, according to order, preſented to the Houſe an account of the amount of the ſix pence per pound on the additional duties paid into the treaſury for the uſe of the publick, from the 21ſt of November 1717 (which as is before ſaid was the commencement thereof) to the 25th of March 1733.

An account laid before the Houſe of the ſix pence per pound on the additional duties, from March 1715 to March 1733.

The Vice treaſurer's fee by his patent, ariſes upon the payment of the ſalaries, pay, &c. as they are from time to time iſſued. The hereditary revenue is to be firſt applied, and the poundage thereupon is to be taken by the Vice treaſurer, to his own uſe. The payments not liable to the poundage fee, are thoſe made out of the additional aids, and the poundage of all ſuch further payments as are made out of the additional aids in each quarter, and no more ought to be placed to the publick credit. This has not been the practice; for the Vice treaſurer takes, to his own uſe, the poundage of all ſums iſſued, which are liable to the poundage, as the money is iſſued in each quarter; and after deducting from the whole receipt of additional aids in ſuch quarter, ſuch ſums as are not liable to the poundage fee, the poundage of the remainder of the whole produce of the additional aids is charged againſt the Vice treaſurer, by the Accountant general, in the publick accounts.

This practice though conſidered as inconſiſtent with the directions of the loan acts, yet having been the method of accounting, when the aforeſaid two grants of additional and loan duties were in one act, hath continued ever ſince; notwithſtanding, by the aforeſaid act of 5 Geo. II. ſeparate and diſtinct accounts were to be kept; and yet this method is not obſerved with regard to the tillage, duties, proteſtant ſchools, and Lagan navigation; and the Accountant general doth not induce any charge of poundage upon the Vice treaſurer on account thereof, although in this reſpect they ſeem to ſtand upon the ſame footing.

The method of charging the Vice treaſurer by the Accountant general with the poundage of both the additional and loan duties, and how he may ſuffer thereby.

And the Vice treaſurer is ſo charged with the ſaid poundage on both the old additional duties and loan duties, as ſoon as the ſeveral collectors of the kingdom have made up their accounts, and the time limited for the draw backs to merchants is expired; ſo that the Vice treaſurer is not only ſo charged with a great part of the ſaid poundages, even before the money has iſſued, and whilſt it is lying in the treaſury, but alſo with the ballance in the hands of the ſeveral collectors; for his accounts are divided into quarterly accounts, ſo that it may happen, that ſhould he die, or be removed, and his ſucceſſor remain in office one quarter of a year only, and ſhould the additional duties and a loan, after payment of the ſums not liable to poundage, produce a larger ſum than the amount of all payments out of the treaſury in that quarter, the Vice treaſurer would be a loſer by his office the amount of the poundage of the difference, and his ſucceſſor would gain the benefit thereof. With reſpect to the publick credit it anſwers equally in the end; the irregularity affecting the Vice treaſurer only.

It

It is alſo to be obſerved, that the whole expence of management, amounting to upwards of one hundred thouſand pounds per annum, is deducted out of the produce of the *hereditary* revenue. If that expence has not been encreaſed by the collection of the *additional* or other duties, the practice is proper; but if any expence in management has ariſen by that additional collection, ſuch additional expence ought to be deducted out of the produce of the additional duties, which would by ſo much encreaſe the net amount of the hereditary revenue, the poundage of which encreaſe would be an augmentation to the Vice treaſurers.

Petition of two of the Vice treaſurers.

In this light and under theſe conſiderations ſtood this matter until the 12th of December 1775, when a petition of the right honourable lord viſcount Clare, and of the right honourable Welbore Ellis, two of the perſons appointed to the office of Vice treaſurer, receiver and Pay Maſter general, and treaſurer at war, in the kingdom of Ireland, was preſented to the Houſe and read, ſetting forth that the ſaid office was of great antiquity, and was intitled by his Majeſty's letters patent, to a fee of ſix pence in the pound upon all money iſſued out of his Majeſty's treaſury in this kingdom; that as the Houſe had thought proper, by its reſolutions, and by acts of parliament made purſuant to theſe reſolutions, to appropriate ſuch parts of the ſaid fees as had ariſen upon the additional duties and loan, towards making good the ſupply granted to his Majeſty; it appeared reaſonable to ſuppoſe, it was not the intention of the legiſlature to deprive thoſe officers of the Crown, of any part of the benefits to which they were intitled by his Majeſty's letters patent, on iſſuing the hereditary revenue out of his

treaſury; that, ſince the commencement of the additional duties, a very conſiderable increaſe in the expence of collecting the publick revenues had unavoidably ariſen, and had been defrayed out of his Majeſty's hereditary revenue, as no proviſion was made in the acts which grant the ſaid additional duties, for defraying the expences of collecting the ſame, by which the ſums received in the treaſury, under the head of his Majeſty's hereditary revenue, had been conſiderably leſſened, and in the ſame proportion a diminution of the Vice treaſurer's fees had enſued; that, by ſeveral acts of parliament made in this kingdom, the premiums granted upon flax ſeed imported, upon the inland carriage of corn to the city of Dublin, and the carriage of corn coaſt ways, upon Iriſh coals imported into Dublin, upon fiſhing buſſes, and fiſh exported, had been paid out of his Majeſty's hereditary revenue, and were directed to be paid in ſuch a manner, that a great part of the ſaid hereditary revenue was anticipated, before it came into the treaſury, by which alone the petitioners had within theſe late years ſuſtained a very great loſs, which they preſumed was not the intention of the Houſe, or the legiſlature; and that if the act granting a bounty upon the exportation of corn ſhould operate to the extent which may reaſonably be expected, it would cauſe ſuch a diminution in the fee of the Vice treaſurer, as would probably leave little more than a ſum neceſſary to defray the annual expence of executing the office, and praying the Houſe to take the premiſſes into their conſideration, and to grant them ſuch redreſs as to them ſhould ſeem meet.

And thereupon it was reſolved, that the Houſe would the Friday morning next following reſolve itſelf into a committee of the whole Houſe, to take the ſaid petition into conſideration.

And

And it was ordered, that it be an inſtruction to the ſaid committee to enquire what had been the amount of the fees received by the Vice treaſurers for ſeven years, ending the 29th of September, 1775, diſtinguiſhing the amount in each year; and alſo what ſalary or ſalaries had been paid by the Vice treaſurers to ſuch perſon or perſons as had acted as deputy or deputies in the ſaid office during the ſaid period.

And it was ordered, that the proper officer ſhould lay before the Houſe an account of the ſeveral parliamentary bounties and premiums paid the laſt fifteen years, that is to ſay, on flax-ſeed imported, corn carried coaſtways, and by land carriage, Iriſh coals imported into Dublin, fiſh, oil, fiſhing buſſes, and fiſh exported, diſtinguiſhing each other.

And it was alſo ordered, that the proper officer ſhould lay before the Houſe an account of the poundage fee for the laſt fifteen years, ſhewing the groſs poundage received, the poundage of the additional duties and aids repaid thereout to his Majeſty, the nett poundage remaining to the Vice treaſurers, and the poundage which would have ariſen on the ſeveral ſums paid in premiums and bounties, if they had been ſubject to ſuch fee, diſtinguiſhing each year, and alſo for five years preceding the ſaid period.

And on the ſame day a petition of the right honourable Charles Jenkinſon, clerk of the pells, was preſented to the Houſe, and read, ſetting forth that the office of clerk of the pells is founded upon antient uſage, and appears to have ſubſiſted in Great-Britain ſo early as the ninth year of the reign of Henry III. and to have continued to the preſent

And of the clerk of the pells.

preſent time without interruption; that the fee payable to the clerk of the pells by preſcription, in right of his office, which he derived by patent from his Majeſty, is a penny and one-fifth of a penny per pound upon all payments iſſued out of the Exchequer in this kingdom, in like manner as the office of clerk of the pells is held in Great-Britain; in which kingdom no deduction hath been made from the fees payable to the clerk of the pells, ſince the revolution; though the revenue is at preſent ten times more than it was at that period; that from the year 1703 to the year 1773, with the interruption but of two ſeſſions of parliament, in the years 1729 and 1731, the clerk of the pells of this kingdom had conſtantly paid his fee upon the additional duties granted by parliament, though by ſeveral acts paſſed in that period, the other fees payable upon the additional duties had been applied by parliament to the uſes of the publick; that by a report, ſigned on the 17th of February, 1734, by lord chancellor Wyndham, Mr. Boyle, chancellor of the Exchequer, lord chief baron Marlay, and barons St. Leger and Wainright, as commiſſioners of accounts, upon the memorial of George Dodington, eſq; referred to them by his grace the duke of Dorſet, then Lord Lieutenant of Ireland, it appeared that the clerk of the pells had been conſtantly paid his fee upon all payments made out of the Exchequer, except payments to diſcharge the intereſt and principal of the loan and ſome appropriated funds, the additional pay of the army, and a few other articles therein mentioned; that from the year 1733 to the year 1773, the fees had been uniformly paid to the clerk of the pells as before the year 1729; but that in the laſt ſeſſion of parliament the Houſe had been pleaſed to deduct the fee payable to the clerk of the pells, upon the additional aids granted in that ſeſſion; which with ſeveral loſſes ariſing from the parliamentary

mentary bounties, and other anticipations of the revenue, had very conſiderably reduced the antient and accuſtomed emoluments of the petitioner's office; and praying the Houſe to take the premiſſes into conſideration, and to grant him ſuch redreſs as to themſelves ſhall ſeem meet.

And accordingly the ſaid petition was referred to the committee of the whole Houſe, to whom it was referred, as aforeſaid, to take into conſideration the petition of the right honourable lord viſcount Craggs Clare, and the right honourable Welbore Ellis.

And it was ordered, that the proper officer ſhould lay before the Houſe an account of the produce of the fees of the pells for fifteen years, ending Lady day 1775, diſtinguiſhing each year, and alſo for five years preceding the ſaid period.

And it was alſo ordered, that the proper officer ſhould lay before the Houſe an account of the ſalary or ſalaries which had been paid by the clerk of the pells during the laſt twenty years, to ſuch perſon or perſons as, from time to time, acted as deputy or deputies in the ſaid office.

And the ſaid matters having been taken into conſideration by the committee, they reported their reſolutions to the Houſe, which with ſome alterations and amendments, were agreed to, and are as follow.

Reſolutions of the Houſe of Commons thereupon.

Reſolved, that an addreſs be preſented to his excellency the Lord Lieutenant, that he will be pleaſed to lay before his Majeſty the humble deſire of this Houſe, that his Majeſty will be graciouſly pleaſed to grant to the Vice treaſurer, Receiver, Pay maſter general, and Treaſurer at

at war, in this kingdom of Ireland, ſuch ſalary or ſalaries as his Majeſty in his wiſdom ſhall think fit, not exceeding in the whole the annual ſum of £10,500, clear of all expences attending the execution of ſaid offices, (ſuch expences not to exceed £2,500 a year) in lieu of all fees, ſalaries, and allowances, to which they are now entitled; ſuch fees to be received and applied to the uſe of the publick.

Reſolved, that an addreſs be preſented to his excellency the Lord Lieutenant, that he will be pleaſed to lay before his Majeſty the humble deſire of this Houſe, that his Majeſty will be graciouſly pleaſed to grant to the clerk of the pells, of the kingdom of Ireland, ſuch ſalary as his Majeſty in his wiſdom ſhall think fit, not exceeding the annual ſum of £3,500 ſterling, clear of all expences attending the execution of ſaid office, (ſuch expences not to exceed £350 a year,) in lieu of all fees, ſalaries, and allowances, to which he is now entitled; ſuch fees to be received and applied to the uſe of the publick.

No. 8.

Of the Conſtitution of Ireland with regard to the making of Laws.

BY the ſtat. 10 Hen. VII. c. 4. (called Poyning's law) no parliament is to be holden in Ireland, until the cauſes be firſt certified by the Lord Lieutenant and council here to the King, and affirmed by the King and his council to be good, and the King's licence be firſt had to ſummon a parliament; otherwiſe to be void. No. VIII.

And by the 3 and 4 Phil. and Ma. c. 4. the ſaid act is thus explained, viz. that the conſiderations, cauſes, and articles of ſuch acts as the Lord Lieutenant and council here ſhall think meet to be enacted, ſhall be certified under the great ſeal of this kingdom to the King, who ſhall ſend his anſwer under his great ſeal of England, declaring his pleaſure for paſſing them under their preſent form, or for making alterations of them, or any part of them. And power is thereby given to the Lord Lieutenant and council to certify other conſiderations and ordinances, during the time of the parliament, *&c.*

Now, the method that is purſued in the paſſing acts of parliament in Ireland, in conſequence of the aforeſaid ſtatutes, is as follows.

Firſt, upon leave being given by the Houſe where the bill has its origin, whether of lords or commons, it is brought in under the title of "Heads of a bill," with theſe words always inſerted, to wit, "We pray it may be

No. VIII.

"enacted." And, after being paſſed by the Houſe, it is directed to be carried to the Lord Lieutenant, by whoſe order it is next laid before our privy council, where it may be wholly ſuppreſſed. But when it is agreed to, either without any variation, or with ſuch alterations and amendments as they ſhall think proper, it is then put into the form of an act, and tranſmitted to England, accompanied with a letter from the Lord Lieutenant and council to the ſecretary of ſtate, ſetting forth the purport, and explaining the reaſons and intentions of the bill.

The bill is next laid before a committee of the privy council in England, called the committee for Iriſh affairs, and by them referred to the King's Attorney general; who is to conſider thereof, and to report how far it is, or with what alterations it may be made, proper for being paſſed into a law. Upon his report the bill is taken under the conſideration of the council in England, and it is either dropped, or ordered to be remitted under the great ſeal, without any, or with ſuch alterations as they ſhall ſee fit.

Along with the bill thus ſent back unto Ireland under the great ſeal, which is the Lord Lieutenant's authority to paſs it into a law, it is ſaid to be a conſtant practice to tranſmit, from the council office in England to the Lord Lieutenant's ſecretary here, a reſcript, minutely pointing out, even to an *at* or an *and*, whatever alterations, obliterations, or additions, have been made on the other ſide. From the Lord Lieutenant's ſecretary's office the bill is returned to the Houſe in which it took its riſe; and if upon comparing it with the heads of the bill as they were ſent from hence, there are found any variations, then theſe variations are taken under conſideration, and if they appear

appear of ſuch a nature as to defeat the original purpoſes of the bill, or in any other reſpect to render it improper to be paſſed into a law, the Houſe lets the bill drop. When this is not the caſe, the bill is ſent to the other Houſe of parliament, with a meſſage deſiring their concurrence; which Houſe is only at liberty either to paſs or to reject the whole, without making any variation.

And on all heads of bills for publick acts in general, the words are, "We pray it may be enacted;" but if it be a bill of ſupply, or a money bill, (as it is here called) the words are, "We your Majeſty's moſt dutiful and loyal "ſubjects, the commons of Ireland in parliament aſſembled, "do moſt humbly beſeech your Majeſty that it may be "enacted;" and in this caſe, the ſame words are in the bill when paſſed into law. So the bills of ſupply in England are in pretty much the ſame terms, as the money is the grant of the commons. The words in private acts are, "The ſaid A. B. (the petitioner) humbly prays that it may be enacted;" and this prayer is ſet forth in the bill. But in publick bills when paſſed into a law, the words are only, "Be it enacted."

So that in this reſpect, the conſtitution of England and Ireland are the reverſe of each other; in England the propoſitions come from the houſes of parliament, and the negative is in the Crown; in Ireland the propoſitions come from the Crown, and the negative is in the Houſes; wherefore, in England it is called a bill in the firſt inſtance, and when the two Houſes have agreed to the act, it is immediately brought to the King for his royal aſſent.

No. VIII.

And when a bill of ſupply is ſent from the Commons here, for the concurrence of the lords, they muſt (as is before mentioned) either paſs it or totally reject it, not having power to alter or amend a tittle thereof; and when they have aſſented, they ſend the ſame ingroſſed bill back to the Commons, that the ſpeaker may carry it up for the royal aſſent, preſent it as the free gift of the people, and receive thanks from the throne for it. In reſpect to all other bills, when the lords have agreed to them, they keep the ingroſſment in their own houſe, and only ſend a meſſage in writing to the Commons, that they have agreed to the ſame.

Then the words in which the royal aſſent in theſe three caſes is delivered are different; on public bills; the words are "le Roy le veult, i.e. the King wills it ſo to be." On money bills, "le Roy remercie ſes bons ſubjects, "accepte leur benevolence, et ain ſi le veult; i.e. the King "thanks his loyal ſubjects, accepts their benevolence, and "wills it ſo to be." On private bills, the words are, "ſoit fait comme il eſt deſire, i.e. be it as it is deſired" *.

* It muſt ſeem very extraordinary to ſtrangers, that we ſhould thus in framing our laws, make uſe of other languages as we do in ſeveral inſtances, both of Latin and French, as if our language was deficient in words for the purpoſes; is it not a reproach to us? and the French ſo uſed is barbarous, as *veult* for *veut*, *benevolence* for *bien viellance*, *ſubjects* for *ſujet*, &c.

The

No. 9.

The Manner of paſſing the Publick Accounts before the Houſe of Commons, and the preſent State of the Publick Accounts.

No. IX.

NO account of the diſpoſition of the King's revenue in this kingdom was laid before parliament, until the year 1692, when the Crown wanted further ſupplies. Then a motion was made in the Houſe of Commons, that ſuch accounts might be brought in; and the reaſon of the motion appears on the journal, viz. "that it might be "better known what ſupplies were neceſſary to be given "to their Majeſties," and for the ſame reaſon, they have every ſeſſion ſince been brought into parliament. They are as a direction for the diſcretion of the Commons in the grants they are making, and to enable them to judge what may be the ſupply *.

And theſe accounts contain the expences of government, and the produce of the revenue, as well hereditary, as temporary or additional.

And when they are brought in by the proper officers to the Houſe of Commons, a committee is appointed to inſpect them, and to report to the Houſe thereon,

* Afterwards in the year 1709, Mr. Burgh the then Accountant general, having laid the publick accounts before the Houſe of Commons, in a method which appeared to the then committee of accounts to be plain, juſt, and regular, and to their ſatisfaction, the ſame has been ever ſince purſued, with very little variation, although it has been thought that ſome alteration for the better might be made in this method.

and

No. IX.

and this committee is ſometimes impowered to appoint ſub-committees to inſpect them. When the committee bring in their report, it is ordered to lye on the table, together with the abſtracts and accounts, for the peruſal of the members. The next day, uſually, the report, abſtract and accounts, together with the eſtabliſhments are referred to the committee of ſupply, (which is a committee of the whole Houſe;) and when they report that a ſupply be granted to his Majeſty, then the report from the committee of accounts, as alſo the abſtracts of the accounts, together with the eſtabliſhments, and the report from the committee of ſupply, are referred to the committee of ways and means, (which is alſo a committee of the whole Houſe;) and when they are prepared with their report, the Speaker reſumes the chair, and the Chancellor of the Exchequer, (who is uſually, if he be in the kingdom, the chairman of this laſt committee,) ſignifies that he is directed by this committee to report their reſolutions, when the Houſe ſhall be pleaſed to receive the ſame, and a day is accordingly appointed. Then on this day the report is read, and the queſtion put to the reſolutions ſeverally; if the Houſe agree thereto, the report is thereby confirmed; if not, the reſolutions not agreed to are debated.

The accounts ſtated by the committee of the Houſe of Commons frequently do, and muſt, vary from thoſe ſtated by the commiſſioners of accounts, the former taking credit where the demands are outſtanding and uncertain debts, and not giving credit for other articles, by which the ballances ſtruck by the committee and the commiſſioners vary; but this does not alter the manner of accounting in the treaſury before the commiſſioners, or induce a charge on the treaſury exceeding the balance ſtruck

ſtruck by them; the only uſe made of the accounts in parliament is as a meaſure of what they ſhall provide for publick ſervices; and they frequently animadvert on ſuch articles of expence as they think unneceſſary.

A committee of accounts appears from all that hath been ſaid to have commenced with parliament after the revolution, and is now become ſo much a part of the parliamentary conſtitution, that by a ſtanding order of the Houſe, no ſupply can be granted until the ſaid committee ſhall make a report; and whenever that committee hath reported any ſum a credit to the nation, it hath been the uninterrupted practice, that the ſum ſo in credit, whatever it hath been, is placed to the current ſervice of the next two years, for which the ſupply was granted; and it cannot be otherwiſe without breaking in upon the chain of the publick accounts, which hath ſubſiſted ever ſince the firſt grant of additional duties in aid of the hereditary revenue.

But this ſum in credit hath not been hitherto appropriated or applied by parliament, as is evident from the ſeveral acts granting the additional duties, this balance being never mentioned therein; yet being eſtimated as part of the ſupply voted, the next grant of additional duties for that reaſon in ſome inſtances hath been made the leſs.

Then the accounts are made up in the treaſury on actual receipts and payments; they are ſtated before commiſſioners appointed for the purpoſe, purſuant to the Iriſh act of 10 Hen. VII. chap. 1. and the balances ſtruck on theſe accounts are the charge on the officers, who are entruſted with the cuſtody of the treaſure.

The

No. IX.

The accounts of the Houſe of Commons are made up in quite a different method; for being intended (as aforeſaid) only as eſtimates, credit is taken for the balances of diſmiſſed collectors, and other outſtanding demands and debts, ſome part whereof there is little probability of receiving or recovering; wherefore, although theſe may be of ſome uſe in guiding the diſcretion of the Houſe as to the quantum of the ſupply, they cannot probably be called a charge on the treaſury; but the great articles of outſtanding debts are arrears of hearth money, and quit and other chief rents, which, though in arrear on the 25th of March, (when the publick accounts ended,) were then in a courſe of collection, and the greater part thereof are generally received by the time thoſe accounts are laid before the parliament, and the accounts are thus ſtated for them by the Accountant general.

And whenever the eſtabliſhment is laid before the Houſe of Commons for a ſupply, it is provided for as if it were full, though it is well known not to be full at the time; but it is ſo ordered, leſt it may happen to be full before the ſucceeding ſeſſion. And whatever difference there ariſes between the full eſtabliſhments and the ſums which the treaſury is liable to pay, is returned by the Auditor and Muſter general as ſavings, and the Accountant general charges the nett ſum payable by the treaſury only, as it greatly redounds to the profit of the kingdom, to keep its eſtabliſhment full, though a greater expence were to follow.

Now from the aforeſaid method of accounting, there was a conſtant varying of the arrears in the publick accounts.

Wherefore,

No. IX.

Wherefore in the year 1771, the Houſe of Commons took under their conſideration certain ſums returned then in arrear on the publick accounts, and finding that the Muſter maſter and Auditor general returned an account of the two years charge, and of the ſavings to the Accomptant general, who adding the net charge to the former arrears, and deducting from the total ſuch payments as were made by the Vice treaſurers, returned the remainder in arrear, (by which method in length of time a conſiderable difference aroſe, between the arrears ſo returned and what appeared on enquiry to be really due, particularly on the article of half pay, on which much larger ſavings appeared than had been returned to the Accomptant general,) and in ſtating the debt in that ſeſſion, the Houſe took credit for ſuch ſavings as they found had not been returned to the Accomptant general, which conſiderably diminiſhed the arrear which ſtood on the national accounts.

No. 10.

An ESTABLISHMENT or LIST, containing all the Payments to be made for civil Liſt Affairs for the Kingdom of Ireland, dated the 2d of March 1761, and commencing the 25th October, 1760, the Time of his preſent Majeſty's Acceſſion to the Throne.

COURT OF EXCHEQUER.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Lord treaſurer	Duke of Devonſhire	365			2d March 1754	
Vice treaſurer	John earl of Sandwich, Welbore Ellis, and Robert Nugent, eſqrs.	50			7th Jan. 1760	
Chancellor	Sir William Yorke,	200			28 March 1761	
	Augmentation	300			do.	
	Additional ſalary	700			22d Sept. 1757	
		1200				
Lord chief baron	Edward Willes, eſq;	500			29th Mar. 1757	
	Augmentation	200			15th Sep. 1697	
	2d Augmentation	300			10th Mar. 1752	During his Majeſty's pleaſure.
		1000				
Second baron	Richard Mountney, eſq;	400			30th July 1741	
	Augmentation	200			15th Sept. 1697	
	2d Augmentation	200			10th Mar. 1752	
		800				
Third baron	Arthur Dawſon, eſq;	800			14th Jan. 1741	
Prime ſerjeant	Thomas Teniſon, eſq;	100			27th July 1759	
Second ſerjeant	Edmond Malone, eſq;	30	6		10th Sep. 1759	
Attorney general	Philip Tiſdall, eſq;	88	6	8	27 Aug. 1760	
Solicitor general	John Gore, eſq;	88	6	8		
Auditor general	Lord viſcount Jocelyn	184				
	Tranſmitting yearly accounts to England	50			17th Apr. 1750	For life.
	In full of all taxes upon paſſing ſheriffs accompts	31				
	Augmentation	200			6th Apr. 1753	Pleaſure.
Surveyor general	William Moleſworth, eſq;	60			26th Oct. 1727	
	Augmentation	100				
Eſcheators of						
Leinſter	Geo. Meares, eſq;	6	13	4	11th Feb. 1752	Pleaſure.
Munſter	William Auſten, eſq;	1	5		5th July 1746	
Conaught	St. John Bowden, eſq;	1	5		11th May 1742	
Ulſter	John King, eſq;	1	5			

Chief

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Chief remembrancer	Earl of Clanbraſſill	30			17th Sep. 1742	Life.
	Paſſing ſheriffs accounts	21	19	2		
Second remembrancer	Richard Morgan, eſq;	7	15	6	23d Dec. 1729	Pleaſure.
	Paſſing ſheriffs accounts	45	6	9		
Clerk of the pipe	John and Brinſley Butler	45			26th Dec. 1749	Lives.
	Paſſing ſheriffs accounts	111	12			
Chief chamberlain	John Clarke, eſq;	52	3	4	4th Sep. 1759	Pleaſure.
Second chamberlain	James Wall, eſq; and ſon	52	3	4	22d Dec. 1731	
Comptroller of the pipe	Robert and Geo. Meares	7			13th Apr. 1750	
	Paſſing ſheriffs accounts	46	10			
Uſher of the Exchequer	Joſeph Kennedy	12	10		16th May 1755	
	Paſſing ſheriffs accounts	11	12	6		
Tranſcriptor and foreign appoſer	Edmond Burroughs	15			28th Mar 1758	
	Paſſing ſheriffs accounts	38	15			
Summoniſter and clerk of the eſtreats	John Morriſon, eſq; and Nicholas his ſon	7	10		5th May 1748	
	Paſſing ſheriffs accounts	36	8	6		
Marſhal of four courts	James Dexter, eſq;	280			18th Feb. 1741	
Clerk of the pells	Geo. Bub. Dodington	30			9th Nov. 1728	Life.
Clerk of the firſt fruits and twentieth parts	James Glaſcock, eſq;	27	10			
	Paſſing ſheriffs accounts	11	4	9		
Cryer of the Exchequer	Thomas Heaton, eſq;	1	13	4		
	Paſſing ſheriffs accounts	7	15			
Purſuivant of Exchequer	Cha. and Rob. Meares	71	5			
	Paſſing ſheriffs accounts	7	15			
Auditor of foreign accounts	Henry Dering, eſq;	121	13	4		
		6258	2			

KING'S BENCH.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Lord chief juſtice	Warden Flood, eſq;	600			25th Aug. 1760	Pleaſure.
	Augmentation	200			15th Sep. 1697	
	2d Augmentation	300			10th Mar. 1752	
Second juſtice	Chriſt. Robinſon, eſq;	400			25th Jan. 1758	
	Augmentation	200			15th Sep. 1697	
	2d Augmentation	200			10th Mar. 1752	
	Termly fee	41	15	1	29th Mar. 1760	
Third juſtice	William Scott, eſq;	400			6th July 1759	
	Augmentation	200			15th Sep. 1697	
	2d Augmentation	200			10th Mar. 1752	
Clerk of the Crown and prothonotary	Tho. Carter, eſq; and ſon	7	10		2d Oct. 1733	Their lives.
	Additional allowance	500			23d Oct. 1755	To Tho. the elder during pleaſure.
		3249	5	1		

CHANCERY.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Lord Chancellor	John lord Bowes	2000			22d Mar. 1757	Pleaſure
	Augmentation	500				
	Additional ſalary	500			14th Aug. 1758	
Maſter of the rolls	Richard Rigby, eſq;	157	9	11	21ſt Feb. 1761	
	Thomas Stopford, eſq;	60			23d Feb. 1741	
	Augmentation	40				
	Charles Walker, eſq;	100			3d May 1754	
	John Tunnadine, eſq;	100			15th Aug. 1758	
	William Auſtin, eſq;	100			15th Jan. 1750	
Clerk of the Crown and clerk of the hanaper	Sr Compton Domville, bart.	25			9th Oct. 1708	Life, reverſion to Hen. S. Conway.
		35	10			
		3617	19	11		

COMMON PLEAS.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Lord chief juſtice	Richard Aſton	500			21ſt May 1761	
	Augmentation	200			15th Sep. 1697	
	2d Augmentation	200			10th Mar. 1752	
Second juſtice	Robert French	400			4th Oct. 1745	
	Augmentation	200			15th Sept. 1697	
	2d Augmentation	200			10th Mar. 1752	
Third juſtice	Robert Marſhal	800			24th Apr. 1754	
Prothonotary	Barry Maxwell	7	10		4th Nov. 1741	Life in truſt for Jud. Maxwell, her heirs, &c.
		2507	10	0		

STATE OFFICERS.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Principal ſecretary	Thomas Carter, eſq;	300			18th Feb. 1760	His life reverſion to Philip Tiſdall, eſq; for life.
	Additional ſalary	1200			23d Oct. 1755	
Clerk of the council	Lord George Sackville	400			26th Oct. 1737	Life.
	Paper and parchment	40				
Phyſician to the ſtate	Robert Robinſon, eſq;	66	13	4	19th Feb. 1742	Pleaſure.
	Additional allowance	133	6	8		
Ulſter king of Arms	James Maculloch, eſq;	26	13	4	22d Mar. 1759	Pleaſure.
Athlone purſuivant	George Winſtanley, eſq;	13	13	9	8th Sept. 1749	

Chief

Employments.	Officers names.	Per annum.			Dates of letters patent.	Term.
		l.	*s.*	*d.*		
Chief ſerjeant at arms	James Bailie, eſq;	100			12th May 1756	Pleaſure.
Second ſerjeant	Humphrey Minchin, and John Dawſon, eſqrs;	100			29th Mar. 1756	Lives.
Firſt purſuivant	James Belcher, eſq;	30			1ſt July 1723	Life.
Second ditto	Tho. and Edw. Lill, eſqrs;	30			5th Dec. 1727	Pleaſure.
Third ditto	Alexander Carroll	30			18th Sept. 1724	Life.
Uſher of council chamber		18	5			
Keeper of the records in Bermingham tower	Lord Farnham	500			7th Nov. 1754	Pleaſure.
Conſtable of the caſtle of Dublin	Thomas Hatton, eſq;	20			31ſt May 1758	Life.
	Augmentation	345				
Kettle drummer	Matthew Dubourg	70				
Six ſtate trumpeters	Luke Heron	70			Appointed by government.	
	John Johnſon	70				
	Lewis Layfield	70				
	Rowland Jacob	70				
	Thomas Price	70				
	Thomas Brown	70				
Lord mayor and citizens of Dublin		500			11th July 1665	For ever.
	Additional allowance	300			Eſtabliſh^{t}. 1717	Pleaſure.
Ranger of Phœnix park and maſter of the game	Nathaniel Clements, eſq;	50			18th Apr. 1751	Lives of Robert, Will. and Henry Theo. his ſons.
Houſe-keeper and ward-robe-keeper of the caſtle of Dublin.	Margaret Humphry	120			23d Sept. 1724	Life.
	In lieu of her lodgings, fire, candles, &c.	80			Eſtabliſh^{t}. 1761	Pleaſure.
Publick regiſter of deeds and conveyances	John Burton, eſq;	500			8th May 1749	Good behaviour.
Regiſter of forfeitures	Thomas St. George, eſq;	300			10th Mar. 1760	Commiſ^{n} warrant.
Porter, Dublin caſtle	Crofton Warren	13	13	9	27th Apr. 1733	Pleaſure.
	Additional allowance	18	5		6th Apr. 1753	
Maſter of the revels	Robert Wood, eſq;	300			29th Jan. 1756	Pleaſure.
Conſtable of the caſtle of Limerick	Thomas Southwell, eſq;	365			7th Mar. 1760	
Clerk of the quit rents	Richard Vernon, eſq;	500			17th Apr. 1761	Life.
		6890	10	10		

INCIDENTS.

INCIDENTS.

Employments.	Officers names.	Per annum.	Dates of letters patent.	Term.
		l. *s.* *d.*		
Ten juſtices of aſſize for two circuits	— — —	2000	Eſtabliſh^{t}. 1666	Pleaſure.
Rent of Exchequer chamber, &c.	Dean of Chriſt church	15 10		
Rent of Skiddy's caſtle, being the ſtore houſe of Cork	Duke of Devonſhire	7 10		
Vice treaſurers for parchment	— — —	25	See Exchequer	
Singers of Chriſt church for praying for his Majeſty	— — —	2	Eſtabliſh^{t}. 1666	Pleaſure.
Keeper of the houſe for receipts	John Noble	5	Appointed by dep. Vice trea^{r}.	
Solicitor in criminal cauſes	John Morriſſon, eſq;	100	8th July 1758	Pleaſure.
Prebendary of St. Audeon's for viſiting ſick priſoners	Allen Morgan	20	16th Feb. 1760	His incumbency.
Bailiff of Phœnix park	Thomas Croſsthwaite	9	30th Aug. 1742	Pleaſure.
Gate keepers of ditto	Several	17 18	Appointed by the ranger.	
Under-keepers of ditto for winter firing	— — —	13 2 6		
Vicar of Caſtleknock in lieu of his glebe and tythes in Phœnix park	Dr. Kene Percival	18	8th Jan. 1752	His incumbency.
Ranger of the Curragh	Charles O'Hara, eſq;	20	16th Feb. 1760	Pleaſure.
	Additional allowance	100	25th June 1761	
Maſter of riding houſe	George Broom	100	28th June 1754	
Rent of a platt of ground near Carrickferg. caſtle	William Lyndon	16 3 6		
Wardrobe keeper for coals		4	See ſtate officers	
French Miniſters at Liſburne	Saumarez Dubordieu	60	30th June 1755	Pleaſure.
Waterford	Auguſtus Deſvories	50	7th Feb. 1759	
Dundalk	Henry D. Petitpiere	60	8th Feb. 1737	
Cork	John Madras	50	25th Sept. 1745	
	John Pick	50		
Iniſhannon	Peter Cortez	60	9th Jan. 1760	
Royal Hoſpit. near Dublin		1183	18th May 1726	Pleaſure.
	Additional fund	817	12th Sept. 1753	Pleaſure.
Conſtable of the caſtle of Dublin, in lieu of his lodgings in ſaid caſtle	— — —	70	1ſt Oct. 1733	Until repaired.
King of Arms for his attendance on ſtate days	— — —	12	See ſtate officers	
Thomas Jarrett for pumping water for ſaid caſtle.	— — —	11 13 10	Appointed by Surveyor gen.	
Keeper of the parliament houſe	Elizabeth Molloy	110	19th July 1755	Pleaſure.
Servants wages and neceſſaries for ſaid houſe	— — —	232 19 10	19th Nov. 1759	Pleaſure.

STATE

STATE MUSICIANS, Viz.

Employments.	Officers names.	Per annum. l.	s.	d.	Dates of letters patent.	Term.
Director and supervisor	Robert Wood, esq;	20				
Master and composer	Matthew Dubourg	100				
Violins	John Johnson	40			Appointed by government.	
	George Wade	20				
	Francis Weder	30				
	Benjamin Johnson	20				
	Calaghan M'Carty	15				
	Samuel Lee	40				
	William Delamain	25				
	Thomas Kelly	10				
	Peter Fitzgerald	10				
	Richard Whiteman	10				
	Thomas Bridgeman	30				
Vicar of St. Andrews in lieu of tythes for the parliament house	William Brown	10	2	0½	9th Aug. 1760	Pleasure.
Incorporate society in Dublin, for promoting English protestant schools	— — —	1000			27th Mar. 1739	Pleasure.
Rent of the four courts	Dean and chapter of Christ-church	12	12	7	Lease for 883 years from Nov. 1744	
Rent of rooms over the same	— — —	10	11	4		
Rent of rooms over the old chapter-house	Vicars chorals	3	17	3½	Lease for 40 years from Lady day 1745	
In lieu of groom porter	Sackville Bate	95			24th Feb. 1745	Pleasure.
	Kath. Bickerstaffe	55				
For rent of an house and yard in Limerick	Thomas Coulson	13	0	3½	6th Feb. 1748	His life.
One plate to be run for on the Maze course near Hilsborough	Royal corporation of horse breeders in the county Down	103	4	5	27th Feb. 1749	Pleasure.
One King's plate to be run for on the Curragh of Kildare in April, yearly, by mares, 100 Guineas clear	— — —	118	18	2¼	4th Feb. 1756	
One King's plate to be run for there at the same time by Irish bred horses	— — —	117	11	4½	4th Feb. 1756	

One

Employments.	Officers names.	Per annum.	Dates of letters patent.	Term.
		l. *s.* *d.*		
One plate to be run for there the 2d Tuesday in June, by horses, &c. 3 years old, carrying 8 stone, 7lb.	— — —	118 18 2¼	22d Mar. 1758	
One plate to be run for there on Friday next after the 2d Tuesday in June, by horses, &c. 5 years old, carrying 9 stone	— — —	118 18 2¼	14th May 1760	Pleasure.
An addition to infirmary fund	— — —	100	21st Mar. 1759	
President at the general quarter sessions for the county Dublin	George Smith, esq;	200	12th Dec. 1759	
		7687 11 6¾		

CUSTOM OFFICERS.

Employments.		Officers names.	Per annum.	Dates of letters patent.	Term.
			l. *s.* *d.*		
Dublin	Customer	Earl of Harrington	7 10	18th May 1748	Pleasure.
	Comptroller	Robert Tighe, Robert and William Clements	7 10	24th Apr. 1761	
	Searcher	Nathaniel Clements, esq;	5	27th Nov. 1744	Lives of Rob. and William his sons.
Wexford	Customer	Charles Jones	10	19th Sept. 1727	Pleasure.
	Comptroller	Henry Eccles	5	4th Mar. 1741	
Waterford and Ross	Customer	Ja and Miller Clifford	15	22d June 1758	
	Comptroller	Henry Eccles	15	4th Mar. 1741	
	Searcher	James Wallandson	6 13 4	16th Dec. 1737	Lives.
Youghal and Dungarvan	Customer	Lewis Jones	13 6 8	19th Sep. 1727	Pleasure.
	Comptroller	Thomas Power, esq;	6 13 4	7th Sep. 1727	
	Searcher	Robert Bellew	5	18th Nov. 1730	
Cork	Customer	Charles Gordon, esq;	13 6 8	27th Feb. 1749	His and John Trotter's lives.
	Searcher	Sir William Fownes	5	18th Apr. 1727	
Kinsale	Customer	Wil. Rosingrave, esq;	13 6 8	3d Nov. 1749	Pleasure.
	Searcher	*Vacant*	6 13 4		
Limerick	Customer	John Fitzpatrick and John Brereton	13 6 8	28th Apr. 1752	Pleasure.
	Comptroller	John Mc. Mahon, sen. and jun.	13 6 8	12th Apr. 1758	
	Searcher	*Vacant*	5		

Galway

Employments.	Officers names.	Per annum.			Dates of letters patent.	Term.
		l.	*s.*	*d.*		
Galway { Cuſtomer	John Wetherall	13	6	8	23d Oct. 1754	Pleaſure.
Galway { Searcher	Henry Ruſſell, eſq;	5			22d Dec. 1657	For life.
Drogheda, Dundalk, Carlingford { Cuſtomer	Rich. Cha. Whaley and Wa. Dawſon	7	10		12th Oct. 1733	Pleaſure.
Drogheda, Dundalk, Carlingford { Comptroller	James Read	7	10		7th Dec. 1749	Pleaſure.
Drogheda, Dundalk, Carlingford { Searcher	Charles Jones	5			19th Sep. 1727	Pleaſure.
Carrickfergus { Cuſtomer	Richard Griffith	7	10			
Carrickfergus { Searcher	Alexander Saunderſon	6	13	4	4th Apr. 1754	Pleaſure.
Strangford { Cuſtomer	Henry Tiſdall	7	10		11th Nov. 1757	Pleaſure.
Strangford { Searcher	*Vacant*	6	13	4		
Dingle { Cuſtomer	Maurice Fitzgerald	5			28th Aug. 1741	Pleaſure.
Accomptant general	Ag. & Geo. Veſey, eſqrs.	700			15th May 1759	Pleaſure.
		938	6	8		

PERPETUITIES.

Employments.	Officers names.	Per annum.			Dates of letters patent.	Term.
		l.	*s.*	*d.*		
Provoſt and fellows of Trinity college Dublin	— — —	388	15			
Dean and chapter of Chriſt church	— — —	45	6	8		
Archbiſhop of Dublin for proxies out of divers churches belonging to the late monaſteries of St. Thomas, St. Mary, and John Jeruſalem	— — —	18	5	6		
Biſhop of Meath out of the manor of Trim	— — —	3	15		Eſtabliſh^t. 1666	
Chamber of Chriſt church for rent of a platt of ground near Dublin caſtle	— — —	27				
Francis Kearny, eſq; for rent of Caſtleny park whereon the fort of Kinſale ſtands	— — —	6	13	4		
Firſt French miniſter at Dublin	John Lewis Scoffier	50			Eſtabliſh^t. 1699	
Second ditto	Charles Lewis De Villette	50			Eſtabliſh^t. 1717	
Executors of George Grierſon for printing the bills of mortality	— — —	12			18th June 1730	For forty years.
The ſame as King's printer	— — —	8			3d May 1758	Ditto.
Miniſter of St. James's for tythes of lands in the Phœnix park	William Tiſdall	12			Eſtabliſh^t. 1690	

Employments.	Officers names.	Per annum.	Dates of letters patent.	Term.
		l. *s.* *d.*		
Richard Price Parry for rent of the parliament houſe	— — —	247 18 9	5th Mar. 1728	
Thomas Gould, eſq; for rent of a platt of ground adjoining the paſſage into the caſtle of Dublin (now horſe guard)	— — —	87 2 4	23d July 1745	
Clerk of the paper office	John Lord Bowes	200	29th Oct. 1754	His life and Joſ. Kennedy's.
		1156 16 7		

COMMISSION OF APPEALS.

Employments.	Officers names.	Per annum.	Dates of letters patent.	Term.
		l. *s.* *d.*		
Firſt commiſſioner	Anthony Marlay, eſq;	100	8th Sept. 1759	Pleaſure.
	Augmentation	40		
	2d Augmentation	60		
Second commiſſioner	Robert Fitzgerald, eſq;	200		
Third commiſſioner	James Sheil, eſq;	200		
		600		
Nonconforming miniſters		1200	11th Mar. 1704	Pleaſure.
Concordatum		5000		

COMMISSIONERS AND OVERSEERS OF BARRACKS.

Employments.	Officers names.	Per annum.	Dates of letters patent.	Term.
		l. *s.* *d.*		
	Henry Loftus, eſq;	400	18th May 1759	Pleaſure.
	Henry Sandford, eſq;	400		
	Henry Lyons, eſq;	400		
	Thomas Adderly, eſq;	400		
	Rob. Cunningham, eſq;	400		
	John Magill, eſq;	400		
	Carleton Whitelocke, eſq;	400	21ſt May 1759	Government warrants.
Secretary	Richard Robinſon, eſq;			
		3150		

COURT

COURT OF ADMIRALTY.

Employment.	Officer's name.	Per annum.	Date of letters patent.	Term.
		l. *s.* *d.*		
The judge	Robert Fitzgerald	300	2d Oct. 1759	Pleasure of lords of admiralty.

PENSIONS.

Totals thereof £55497 5

FRENCH Ditto.

Totals thereof £871 8 9

TOTALS OF THE AFORESAID CIVIL ESTABLISHMENT.

	l.	*s.*	*d.*
Exchequer	6258	2	
King's bench	3229	5	1
Chancery	3617	19	11
Common pleas	2507	10	
State officers	6890	10	10
Incidents	7687	11	6¾
Cuſtom officers	938	6	8
Perpetuities	1156	16	7
Commiſſion of appeals	600		
Commiſſioners and overſeers of barracks	3150		
Admiralty court	300		
Non-conforming miniſters	1200		
Concordatums	5000		
Penſions	55497	5	
* French penſions	871	8	9
	98914	18	10¾

* Theſe were ſome of the French proteſtant refugees, who on the perſecution of them by Lewis XIV. and on King William's proclamation of encouragement, tranſported themſelves into England; ſeveral of whom ſerved faithfully and bravely under him in the reduction of the rebels in Ireland. There are but few of theſe penſioners now living.

Note, Additions have been ſince made to ſeveral of the ſalaries in the foregoing eſtabliſhment, new officers have been created, and officers added to former employments, which, with penſions ſince granted have cauſed a conſiderable encreaſe in the civil eſtabliſhment; for which, ſee hereafter the returns made to the Houſe of Commons for the two years ending Lady day 1775.

No. 11.

An abſtract of the Hereditary Revenue and Additional Duties for two years, from Lady day 1773 to Lady day 1775.

	Produce. In the year ended at Lady day 1774.			In the year ended at Lady day 1775.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
Balances on the collectors accounts, at Lady day 1773 £82483 13 8⅝						
Balance in the hands of the Pay maſter of corn premiums - £1901 4 8						
Arrears on the revenue, ſtanding out at ſaid time — £88733 4 6½						
Hereditary Revenue.						
CUSTOMS inwards	229609	12	1	203008	12	11½
Cuſtoms outwards	37169	13	4½	38010	10	4
Import exciſe	144796	17	4	130104	0	10½
Prizage on wines	4258			3720		
Light-houſe duty	463	18	6½	392	7	2
Fines, ſeizures, and forfeitures	4527	5	7¾	6676	6	8¾
Caſualties	823	11	3	640	19	9
Inland exciſe	77679	0	10	77259	4	
Ale licences	7680	13	5¾	7655	16	9¾
Wine and ſtrong-water licences	20817	15		18733	15	
Quit. &c. rents	64152	19	5¼	63046	19	3¼
Hearth-money	59383	3	10½	60902	2	1½
Part of the duty on teas	7300			7300		
A further part applied to make up the deficiencies in the revenue proportion for the years, ending at Lady day 1772 and 1773	2500	2	6	661	15	6
	661162	13	4¼	618112	10	6¼

	Expence of management, drawbacks, &c. In the year ended at Lady day 1774.			In the year ended at Lady day 1775.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
Salaries to officers on the revenue eſtabliſhments	90777	17	3	85330	2	9½
Incident charges	33994	7	1¾	41707	0	7¼
Portage bills	2407	2	10½	2154	9	11
Re-payments to merchants	4485	5	7	3907	11	8
Re-payment of the inland exciſe of beer exported	9	18	6	7	17	8
Convicting burglary	15			20		
Premiums: Flax-ſeed imported	5368	16	2	9306	7	6
Premiums: Ditto exported				79	13	
Premiums: Iriſh coals brought to Dublin; Inland carriage of corn, &c. to Dublin; Fiſhing buſſes; Iriſh cured Fiſh exported	204	7	2	213	14	4
	49674	18	7	53902	4	9
	7311	7	6	13138	18	2
	130	10	10¼	681	3	5
Wine warrants to privy counſellors	957	18		1039	16	
Expences in keeping the ſeveral light-houſes	1578	18	9	1353	0	1½
Salaries to hearth-money officers	6285			6393	17	
Hearth-money incidents and conſtables	940	15	7¼	1077	14	9
Allowance claimed for hearth-money collectors and gaugers balances	1284	0	3	1433	2	2¼
Arrears of Inland exciſe	5	10	1⅝	40	3	3¾
	205431	14	4⅜	220786	17	2¼
Drawbacks on Old Additional Duties.						
TOBACCO	14	11	4	117	10	4
Wine—1ſt	251	15	3	213	6	4
Spirits—1ſt	726	16	7	609	1	7
Muſlin—1ſt	5	7	6	2	16	6
Foreign paper	9	15	6			
Beer—exported	6	6	6	5	0	5½
	1014	12	8	947	15	2½

Additional Duties.	Old	Tobacco	72016	19	7½	51859	0 6½
		Wine—1ſt	19568	8	6	16092	6 8
		Spirits, ſingle and exceeding ſingle proof	68417	2	3	59159	2 4
		Muſlin—1ſt	3146	7	7	2242	8 8
		Eaſt-India ſilks and ſtuffs	75	3	6	1	13 9
		Moluſſes	18				
		Paper, foreign, printing, and writing	772	2	7	732	12 4
		Ale, beer, and ſtrong waters	55419	11	3	54894	9 9
			219433	15	3½	184981	14 0½
	New	Wine—3d	3057	3	1	18963	3 1
		Spirits, except of the Britiſh ſugar colonies	2052	13	7	11095	10 5
		Teas, exceeding in value 4 ſhillings per pound weight	261	10	1	2626	2 8
		Cards—2d	164	0	6	1773	8
		Muſlin — 2d, chintz and callicoe	344	5	6	2322	12 6
			5879	12	0	36780	16 8
Supply granted laſt ſeſſion on							
STAMPED vellum, parchment, and paper, received in Dublin						20733	13 1
The like, and for value of vellum, parchment, and paper, received by country diſtributors						3395	15 4⅓
Penalties						50	

Drawbacks on New Additional Duties.					
WINE—3d	11	9	1	194	10 5
Spirits, except of the Britiſh ſugar colonies				56	16 1
Muſlin—2d, chintz and callicoe				1	8 3
	11	9	1	252	14 9
SALARIES to ſtamp officers				3840	1 4
Incident charges				7589	0 9¼
Diſcount allowed to purchaſers of the value of 10*l.* and upwards				419	16 4½
PAYMENTS made to the Vice treaſurers in the two years, ending at Lady day 1775				1323430	13 8¼
The like, out of ſtamp duties				11900	7 6¼
				1335331	1 2⅓
Whence deducting ſo much thereof for the duty on teas, as are applied to the linen and loan funds				25613	15 7
Remains £1309717 5 7¼					
BALANCES on the collectors accounts, ending at Lady day 1775				81268	15 10⅞
The like in their hands on the ſtamp duties				430	2 6½
And in the hands of the Pay maſter of corn premiums, at ſaid time				1324	1 4
Arrears on the revenue, ſtanding out on					
Import exciſe				410	
Diſmiſſed collectors				19347	6 11⅗
Hearth-money				39037	
Quit, &c. rents				31820	

No. 12.

A STATE of the *Eſtabliſhments* and other Charges of Government for Two Years, the *Civil Liſt* ending the 25th, and the *Military* the 31ſt of *March* 1775; together with the Payments made by the *Vice-Treaſurers*, and the Arrears remaining unſatisfied.

Heads of the Eſtabliſhments.	Charge in the two Years ending at *Lady-day*, 1775.			Arrears at *Lady-day*, 1775.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
EXCHEQUER	13846	13	8	3107	5	4
King's Bench	6498	10	2	840	18	9¾
Chancery	9235	19	10	2535	16	5¾
Common Pleas	4701	16	6	1381	1	2½
State Officers	15382	1	4½	3227	16	10¾
Incidents	32071	15	7¾	5641	11	10¾
Cuſtom Officers	5494	11	10	1218	11	9¼
Perpetuities	2913	13	2	657	8	¼
Commiſſioners of Appeals	3000			486	11	½
Non-conforming Miniſters	2400			300		
Concordatum	10000					
Commiſſioners and Overſeers of Barracks	6300			787	10	
Commiſſioners of Impreſt Accounts	5600			700		
Court of Admiralty	600			75		
Penſions	164137	12	11¾	80100	4	7¼
French Penſions	1252	4	6	371	16	1½
Totals of the Civil Liſt — £	283434	19	8	101431	12	2¼
General Officers	47996	4	¼	7519		⅜
Horſe, Foot, and Dragoons	774643	3	8	132909	16	11
Warrant Men	36062			12127	16	5¼
Battle-Axe Guards	3783	16	8	163	8	11⅜
Ordnance including Contingencies, Poundage and Pells Fees	33551	14	2	845	2	2½
Additional Pay in *Dublin*	10908	16	4	2168	5	10
Garriſons with their Incidents	7458	10		425	15	8
Penſions	10573	12	2	9061	9	6
Half pay Officers	46921	6	3	23879	2	4¼
Military Contingencies	6000					
Barracks	26673			3334	2	6
Widows of Officers	11138	8		6581		1¼
Allowance in Lieu of Stoppages from the Pay of the Private Men of Dragoons and Infantry	21392	10	8	6002	19	4
Total of the Military Eſtabliſhment £	1037103	1	11¼	205017	19	10

Heads

Heads of the Eſtabliſhments.	Charge in the two years ending at Lady-day, 1775.			Arrears at Lady-day, 1775.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
Payments by virtue of King's letters	110002	14	3¾			
Charges and payments purſuant to act of parliament	35594	10	4¾			
Further payments purſuant to act of parliament, and the addreſs of the Houſe of Commons. For erecting offices for public records				5000		
For building a marſhalſea for the reception of priſoners				2000		
To ſupport a militia for two years, and for cloathing the ſame				20831	4	
To the Dublin ſociety for improvement of huſbandry and uſeful arts, &c.						
For improving Cork harbour	1000					
To reimburſe the corporation of the city of Dublin, debts contracted in carrying on the ballaſt-office-wall	1500					
To pay debts contracted by the company of ſubſcribers in carrying on the grand canal						
Towards compleating the navigation from Newry to Drumglaſs colliery						
For enlarging and compleating the quay at Londonderry						
For repairing the market-quay at Galway						
To the governors of the work-houſe, Dublin, to diſcharge debts	10000					
To George Winſtanly, eſq; in full ſatisfaction of all his demands for his intereſt in certain grounds and houſes, ſituate at the north end of the Old-Bridge, Dublin	912					
To the truſtees of the circular road round Dublin, to enable them to compleat the ſaid road	800					
To the incorporated ſociety for promoting Engliſh proteſtant ſchools	10000					
For the uſe of the marine nurſery, and to finiſh the building	1000					
To Mr. John Dempſey to enable him to carry on the harbour by him begun at Loughſhinny in the county of Dublin	279	17	4			
Bounty to the linen manufacture	8000			11058	3	9½
Exceedings on the concordatum	32045	15	2½			
The like on military contingencies	11145	7	10¾			
The like on the head of barracks	49568	5	4			

Heads

Heads of the eſtabliſhments.	Charge in the two years ending at Lady-day 1775.			Arrears at Lady-day, 1775.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*
Prizage and fees	8247	8	5	3112	9	7
Commiſſioners of public accounts	1950					
Total of extraordinary charges	282945	18	10¾	42001	17	4½
Duties appropriated to: Linen manufacture	21968	6	2	231	3	11
Tillage	14515	19	½	2081	16	9
Cambrick manufacture				1	2	6
Proteſtant ſchools	2720			801	13	½
Lagan navigation	1621	19	1¾	72		6¾
North weſt fiſhery	830	16	3	160	2	5¼
Principal of the loans unpaid				867200		
Intereſt of the loans at 4l. per cent. unpaid	69612			17268	10	
Life annuities at the rate of 6l. per cent. to the ſubſcribers of 265000l. commencing 25th December, 1773, and payable half-yearly	15900			3210		
To the Dublin ſociety out of the loan duties, 5000l. a year	10000			5000		
Total of appropriated funds	137469		7¼	896026	9	2½
Civil liſt	283437	19	8	101431	12	2¼
Military eſtabliſhment	1037103	1	11¼	205017	19	10
Extraordinary charges	282945	18	10¾	42001	17	4½
Appropriated funds	137469		7¼	896026	9	2½
	1740953	1	1¼	1244477	18	7¼

No. 13

No. 13.

A general State of the National Account for two Years, from Lady-day 1773, to Lady-day 1775.

	l.	s.	d.
DEBT of the nation at Lady-day 1773, as voted by the House of Commons the 19th of November 1773	994890	10	10⅛
The charge of the civil list with additions from Lady-day 1773, to Lady-day 1775, amounts to 288,328*l.* 18*s.* 10*d.* whence deducting for savings 4893*l.* 19*s.* 2*d.* there will remain	283434	19	8
Charge of the military establishment, with additions and ordnance, from the 31st of March 1773, to the 31st of March 1775, amounts to 1,130,531*l.* 10*s.* 2¼*d.* whence deducting 93,428*l.* 8*s.* 3*d.* for savings, there will remain	1037103	1	11¼
Charges and payments, pursuant to acts of parliament, and King's letters, exceedings on concordatum, military contingencies and barracks, prizage, commissioners of accounts and bounty to the linen manufacture, making together	282945	18	10¾
Paid out of the balance in the Vice treasurer's hands of the rents of the lands set apart for the support of Dungannon fort	399	16	2½
Total former debt, charge of the establishments, &c. 2598774*l.* 7*s.* 6⅝*d*			
Towards answering which must be applied,			
The produce of the hereditary revenue from Lady-day, 1773, to Lady-day 1775, 1,279,275*l.* 3*s* 10½*d.* whence deducting 426 218*l.* 11*s.* 6⅝*d.* for management and other expences, there will remain	853056	12	3⅞
Produce of the old additional duties for said two years, 404.415l. 9s. 4d. whence deducting 1962*l.* 7*s.* 10½*d.* for drawbacks, there will remain	402453	1	5½
Produce of the new additional duties granted last session of parliament 42,660*l* 9*s.* 5*d.* whence deducting 264*l.* 3*s.* 10*d.* for drawbacks, there will remain	42396	5	7
Produce of the supply granted last session by duties on stamped paper, vellum and parchment, 24,179*l.* 8*s.* 6½*d.* whence decucting 11,848*l.* 18*s.* 5¾*d.* for expence of management and discount, there will remain	12330	10	¾
Carried over.			

	l.	s.	d.
BY the state of the establishments, No. III. the arrear at Lady day 1773, appears to be 1,247,834*l.* 10*s.* 1¼*d.* whence deducting 2980*l.* 12*s.* 9¾*d.* struck off in former sessions, there will remain	1244853	17	3½
To which add,			
The charge of the civil and military establishments, and other articles of expence, No. III. from Lady day 1773 to Lady day 1775	1740953	1	1¼
Making together	2985806	18	4¾
Whereof there has been paid by the Vice treasurers, from Lady day 1773 to Lady day 1775	1744309	12	7¼
Difference 1241497*l.* 5*s.* 9*d.*			
Towards answering which must be applied,			
Balance in the hands of the Vice treasurers at Lady day 1775, *l.*66,590 6*s.* 0½*d.* and *l.*2297 5*s.* 11¼*d.* then due on the poundage and pells fees, making	68887	11	11¾
Carried over.			

	l.	s.	d.	l.	s.	d.
Carried over.						
Poundage of the old additional duties and linen duties, including part of the duty on teas, in ſaid two years, and on the herring duty from its commencement to Lady-day 1775, 10,678*l.* 3*s.* 11¼*d.* whence deducting 2452*l.* 17*s.* 1*d.* for payments not ſubject to poundage, there will remain	8225	6	1¼			
Further poundage ariſing from the ſaid poundage fee	205	12	7¾			
Poundage on the new additional duties (excluſive of the duty on muſlin and chintz) on the ſtamp duties from their commencement to Lady-day 1775, and on 265000*l.* ſubſcribed to the life annuities to commence at Chriſtmas 1773	8171	13	7¾			
Clerk of the pells fees on ſaid new additional duties and aids	1634	6	8½			
Received from the ſubſcribers to the life annuities	265000					
Received from the directors of public coal yards	2062	12	6			
Received for caſt barracks	155					
Received the balance of four months ſubſiſtence, paid the draughts incorporoted into the 64th and 65th regiments of foot, at their embarkation for North America	973	5				
Received from general Giſborne, the balance of his account of money paid to him while he commanded his Majeſty's forces in the northern parts of this kingdom	24	14	4½			
Received from the agents to the ſeveral regiments of cavalry, the balances due upon their forage account ended in June 1772 and 1773	955	19	9½			
Surplus of the loan duties and aids after diſcharging all intereſt on the loans to Lady-day 1775, the annuities to Chriſtmas 1774, and the grant to the Dublin ſociety of 5000*l.* a year for two years	25012	1	1			
Debt of the nation at Lady-day 1775	976117*l.* 6*s.* 3¼*d.*					

	l.	s.	d.	l.	s.	d.
Carried over.						
The tax of four ſhillings in the pound on abſentees, computed to be due, though not received, at Lady day 1775				15750		
And the balances and arrears at Lady day 1775, on the						
Revenue	173637	6	8¾			
Loan duties	4264	13	4½			
Linen duties	578	4	10¾			
Tillage duties	1278	16	2¾			
Cambric manufacture	1	2	6			
Proteſtant ſchools	750	0	9¾			
Lagan navigation	72	0	6¾			
North-weſt fiſhery	160	2	5¼			
				180742	7	6½
Debt of the nation at Lady day 1775	976117*l.* 6*s.* 3¼*d.*					

For the other accounts, ſee the Houſe of Commons journals from which the foregoing ones were taken.

No. 14.

The STATE of the paſturage-rent of his Majeſty's park, called the Phœnix-park, and of port-corn rents, which, upon the augmentation of the Chief governor's allowance, in the year 1763, 3 Geo. III. were no longer to be in their receipt, but to be collected by the commiſſioners of his Majeſty's revenue, in like manner with his other rents.

No. XIV.

HIS Majeſty having by his letters patent, bearing date the 20th of April, in the third year of his reign, to the earl of Halifax, then Lord Lieutenant of this kingdom, directed that the rent uſually accruing to the Chief governor or governors of Ireland for paſturage in the phœnix-park, near Dublin, and for port-corn throughout Ireland, might, from the day of the date of the letters patent conſtituting a ſucceſſor to the ſaid earl of Halifax in the government of this kingdom, be no longer paid to the Chief governor or governors of Ireland, for his or their uſe; but to the commiſſioners of his Majeſty's revenue, from time to time, for the uſe of his Majeſty, his heirs and ſucceſſors. And by a warrant from the then

No XIV.

lords juſtices of this kingdom, bearing date the 1ſt day of July, 1763, to the Auditor general, the Auditor general being directed and required to make out one or more particular or particulars of the ſaid rents for paſturage and for port-corn, and to put the ſame in charge in his Majeſty's rent-rolls, and make a return thereof to the commiſſioners of the revenue, in order to be collected by their officers, in like manner as his Majeſty's other rents are collected, according to his Majeſty's pleaſure, ſignified in his ſaid letter:

And theſe matters having fallen under my ſolicitation as attorney for his Majeſty's rents, I found that the Auditor general did not put the ſaid rents for paſturage and for port-corn in charge in the ſaid rent-rolls; but as to the port-corn rents he returned to the commiſſioners ſeveral *conſtats* of charges of port-corn, which appeared to have been taken from a rent-roll of port-corn made in the reign of Queen Elizabeth.

But no return of the ſaid rent for paſturage having been made by the Auditor general, I applied to him for the ſame; but, upon ſtrict ſearch in his office, I found that no entry or evidence thereof whatſoever appeared therein.

Whereupon I made ſearch, as to the ſame, in the roll's office and other publick offices; wherein, and from ſome private information I received, I obtained the following account of the nature of the ſaid paſturage rent, as alſo the hiſtory of the eſtate of the Crown in the ſaid park.

Phœnix-park, hiſtory of.

And firſt, I found that King Charles IId. about the year 1662, being in poſſeſſion of the lands of Kilmainham, (which having reverted to the Crown, among other lands, by

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See ſtat. 33 Hen. 8. c. 6.

by a ſurrender made thereof on the 2d of Nov. 32 Hen. VIII. by ſir John Rawſon, knt. prior thereof, upon the ſuppreſſion of the priory of St. John of Jeruſalem, and knights templars, were afterwards, by Queen Mary and King Philip, re-granted to ſir Oſwald Maſſingberde, knt. then uſurping the name of prior of the ſaid priory, who continued in the poſſeſſion thereof till about the year 1559, (2 Eliz.) at which time the ſaid ſir Oſwald left the kingdom of Ireland; and thereupon were again re-inveſted in her Majeſty, her heirs and ſucceſſors, by an act of parliament paſſed in the ſecond year of her Majeſty's reign,) came to a reſolution of forming a park near the city of Dublin, to be ſtocked with deer *.

In purſuance of which reſolution, and in order to add to the ſaid park, an agreement was entered into in the year 1662, by his grace James duke of Ormond, then Lord Lieutenant of Ireland, on behalf of his Majeſty, with Chriſtopher Fagan of Feltrim, in the county of Dublin, eſq; and Daniel Hutchiſon, one of the aldermen of the city of Dublin, (to whom the ſame was leaſed for 61 years) for the purchaſe of the † phœnix and Newtown land, part of the pariſh of Kilmainham, and alſo formerly

* This grant to ſir Oſwald is recited in this ſtatute, and is enrolled in the chief and ſecond remembrancers office, as was uſual in thoſe days, but ſeems to have been diſcontinued ſince the revolution or thereabouts.

† Note, The magazine in the park, which was built in the year 1735, ſtands on the ſcite of the manor-houſe called the phœnix.

part

No. XIV.

part of the poſſeſſions of the ſaid priory, containing 467 acres, 10 perches, (as appears by a ſurvey made thereof by direction of ſir William Petty in 1657, called the Down ſurvey) in conſideration of the ſum of £3000; and the ſame was accordingly conveyed, by deed bearing date the 22d of June, 1671, to the uſe of his Majeſty, his heirs and ſucceſſors, for ever; enrolled 30th Oct. 1671.

His Majeſty being ſtill deſirous to enlarge the ſaid park, gave direction by writ of privy ſeal, dated the 1ſt day of Dec. 1662, to his grace the duke of Ormond, then Lord Lieutenant of Ireland, to purchaſe from ſir Maurice Euſtace, knt. lord chancellor of Ireland, 441 acres, part of the lands of Chapelizod, to be laid into the manor-houſe of the phœnix for a park.

And in a ſecond letter, dated 26th of May 1663, directed to the ſaid duke, (on which day, rangers of the phœnix park, Newtown walks, and maſters of the game were inſtituted, and Marcus Trevor viſcount Dungannon was appointed thereto,) reciting that the 441 acres were inſufficient, he directed him to purchaſe the whole manor and houſe of Chapelizod, with the town and lands thereunto belonging, and ſuch other lands which lie moſt convenient to encloſe for a park, with directions to the Vice treaſurer to ſatisfy the purchaſe money, provided it did not exceed £10000; and alſo to encloſe and impark with a ſtone wall, in ſuch manner as already begun, ſuch lands of the ancient inheritance of the Crown or new purchaſe, as ſhould be judged fit for that purpoſe, and to ſtore the ſame with deer, &c.

A third

No. XIV.

A third letter dated 11th of May 1665, recites that the expences thereof would be found to exceed £10000, and therefore gives further power to extend the ſum, but not to exceed £20000.

Purſuant to which letters, an agreement was entered into between ſir Maurice Euſtace, Kt. and King Charles II. by which ſir Maurice agreed to convey to his Majeſty, the capital meſſuage, mills, manor, town, and lands of Chapelizod, and St. Lawrence land, which were alſo formerly part of the poſſeſſions of the ſaid priory of St. John of Jeruſalem, to hold to his Majeſty, his heirs and ſucceſſors for ever; which deed is not enrolled.

And in the will of ſir Maurice Euſtace dated 20th June 1665, and proved 20th September 1670, is the following clauſe.

" I give to my nephew ſir Maurice Euſtace all my lands " in the county of Dublin, except my manor of Chapel- " izod, which I give to his Majeſty King Charles II. for " ever, according to an agreement entered into with him, " he paying ſuch money as remains due according to the " ſaid agreement."

And a proviſion was afterwards made by the act of explanation, 17 and 18 Ch. II. for payment of the balance of the purchaſe money, remaining due to the executors of the late ſir Maurice Euſtace, and for veſting the lands of Chapelizod in his Majeſty, his heirs and ſucceſſors, for ever.

To

No. XIV.

To enlarge the park, and make it ſtill more extenſive, purchaſes were alſo made from ſeveral other perſons, and conveyed by deeds of leaſe and releaſe unto ſir John Temple, knt. his Majeſty's Solicitor general, ſir Paul Davys, at that time ſecretary of ſtate, and others, in truſt for his Majeſty; viz.

From colonel John Daniel, in conſideration of the ſum of £126 1, part of the lands of Grange Gorman, to be laid into the park. See the Vice treaſurer's accounts, 9th Jan. 1663.

From Thomas Pooley of Dublin, gentleman, in conſideration of the ſum of £500, certain lands. See ditto, 5th Feb. 1663.

From ſir John Temple, knt. in conſideration of the ſum of £200, certain lands taken into the deer-park. See ditto, 5th March 1665.

From William and John Warren of Corduff, in conſideration of the ſum of £240, the lands of upper Caſtleknock, containing 16 acres and an half, the fee ſimple being in them. Deed dated 16th March 1666; enrolled 18th Oct. 1666, 19 Cha. II.

From John Connell of Pelletſtown, gent. in conſideration of the ſum of £2270, part of the lands of Aſhtown, containing, by the Down ſurvey, 152 a. 1 r. 24 p. walled within the new park near the phœnix; being part of the pariſh of Caſtleknock, bounded on the eaſt by little Cabragh, on the ſouth by the phœnix, on the weſt by Caſtleknock, and on the north by the park wall. Deeds of

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of leaſe and releaſe dated 27th and 28th May 1667; enrolled 8th Nov. 1667, 19 Cha. II. See Vice treaſurer's accounts, 1667.

From Philip Hore, gent. in conſideration of his having his other lands confirmed to him, part of the town and lands of Caſtlenock, containing 28 acres, which were accordingly confirmed by the aforeſaid ſtat. 17 and 18 Car. II. Deed dated 20th Dec. 1666; enrolled 3d Nov. 1670.

From Thomas Muſgrave, in conſideration of the ſum of £35, 16 a. 1 ſta. of land, lying in the fields of Kilmainham, conveyed to Peter Beaghane, eſq; —— Stewart and John Wells, comptroller, to John lord Berkley, Lord Lieutenant of Ireland, to the uſe of the King for ever; being then encloſed in the phœnix-park. Deed dated 25th Oct. 1671.

From David Edwards, in conſideration of the ſum of £150, his intereſt in one houſe and 30 acres of land, near Chapelizod, part of the lands purchaſed from ſir Maurice Euſtace. See the Vice treaſurer's accounts, 1668.

From Thomas Boyd. See ditto accounts, 1670.

From Robert Bowyer, in conſideration of the ſum of £44, one third part of Ellen Hore's meadow, near Oxman-town, walled into the phœnix-park. Deed dated and enrolled 15th and 16th Auguſt 1666.

Extent.

By theſe various purchaſes the park extended on the north and ſouth ſides of the Liffey. But there being a highway through the phœnix-park, which was very inconvenient, and the deer thereby daily treſpaſſing upon

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the adjoining lands, whereby many of them were every year loſt and deſtroyed, the King reſolved to exclude that road, and the lands lying on the ſouth ſide thereof; and that a wall ſhould be made of lime and ſtone, on the north ſide of the road, from the park gate next Chapelizod; which deſigned wall, containing in length 527 perches, at the rate of 3*s.* 9*d.* the perch, (being the loweſt rate for which any one offered to build the wall) amounted to above £800, beſide the charge of digging the foundation and making the gates. This wall ſir John Temple propoſed to build eight feet high from the foundation, from the entrance of the park, next Dublin, to Chapelizod, and to finiſh it in one year's time from the 1ſt of May laſt paſt, in conſideration of having £200 out of the treaſury in one year's time towards the charges, and a grant to him of the lands that ſhould be left out of the park, on the north ſide of the highway to Chapelizod, and of what elſe belonged to the Crown within the park, that ſhould be excluded by the wall; which propoſal being accepted, the King granted him the ſaid lands for ever, at the rent of one ſhilling, by patent dated the 9th Auguſt 1682; enrolled 30th April 1683.

Office of rangers.

And, as is before-mentioned, the office of ranger of the ſaid park was inſtituted by his ſaid Majeſty, King Charles II. the 26th of May 1663, and the preſent grant thereof is as follows:

Grant, dated 18th of April 1751, to the right hon. Nathaniel Clements, of the office and place of game-keeper, or maſter of his Majeſty's game of hunting, hawking, fiſhing, and fowling; and chief ranger of all his parks, foreſts, chaces, and woods, within the kingdom of Ireland, as alſo of the ſaid park, as alſo keeper of the walk

walk called Newtown-walk, with the yearly fee or ſalary of £50, and the lodge-houſes, fees, &c. to the ſaid office belonging, with the piece of ground thereunto adjoining, and encloſed with a ſtone wall, with the keeping of twelve horſes, twenty cows, and one bull, with a reaſonable quantity of furze for firing; to hold to the ſaid Nathaniel Clements for the lives of his three ſons, Robert, William, and Henry Theophilus Clements, and for the lives and life of the ſurvivors and ſurvivor of them; to be held and exerciſed by him, or them, &c. and their ſufficient deputy or deputies, to be allowed and approved of by the Chief governor or governors of this kingdom for the time being. No XIV.

And the office of keepers of the ſaid park was alſo inſtituted by his ſaid Majeſty, King Charles II. Two have been conſtantly appointed, and by ſeparate grants; and the preſent grants thereof are as follow, to wit: Keepers.

Grant, dated the 23d Sept. 30 Geo. II. unto Charles Gardiner, eſq; of the office of one of the keepers of the ſaid park, with the walk or lodge therein, called Caſtleknock lodge, and all houſes, edifices, buildings, gardens, meadows, grounds, firing, grazing, and appurtenances to the ſaid lodge belonging, with all rights, liberties, privileges, fees, perquiſites, ſalaries, and other allowances and advantages to the ſame belonging, for the lives of Luke Gardiner and William Gardiner, two of the ſons of the ſaid Charles Gardiner, and the ſurvivor of them, with power to appoint one or more deputy or deputies, and to remove them if occaſion, and appoint anew.

A like grant, dated the 5th of March, in the firſt year of his preſent Majeſty's reign, to George Sackville, eſq;

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commonly called lord George Sackville, of one of the keepers of the ſaid park, &c. to hold the ſame to the ſaid George Sackville during his Majeſty's pleaſure, with ſuch power of appointing one or more deputy or deputies as aforeſaid.

Bailiff, gate keepers, &c.

A bailiff, alſo gate keepers and under keepers, have been all along employed in the ſaid park; and on the 7th of Jan. 1775, the office of bailiff was granted by his preſent Majeſty unto the right hon. ſir John Blaquiere, knight of the Bath, his heirs and aſſigns, for the lives of him, and of their royal highneſſes, George prince of Wales, prince Frederick, biſhop of Oſnaburgh, and prince William Henry, and the lives and life of the ſurvivors and ſurvivor of them, with the yearly ſalary of £9, heretofore placed on the eſtabliſhment of this kingdom for the ſaid office; and of all perquiſites, and other things, to the ſaid office and place appertaining; together with the walk and lodge, and the piece or parcel of ground ſurrounding and adjoining to the ſaid lodge, bounded as therein is mentioned, containing 34 a. 3 r. 17 p. Iriſh plantation meaſure, together with the liberty of grazing in the ſaid park 18 cows, 6 horſes, and 20 ſheep; with power to appoint one or more ſufficient deputy or deputies during the pleaſure of the ſaid ſir John Blaquiere, his heirs and aſſigns.

The gate keepers and under keepers are appointed by the ranger; the firſt have 17*l.* 18*s.* a year among them, the others 13*l.* 2*s.* 6*d.* for winter firing; both ſums on the eſtabliſhment.

Grants made of it by the Crown.

And ſeveral grants have been, from time to time, made by the Crown to different perſons of parts of the ſaid park,

park, for different tenures; and (amongſt others) of that part of the lands of Kilmainham whereon the royal hoſpital now ſtands, and which was part and parcel of the ſaid park, for the purpoſe of erecting the ſaid hoſpital thereon, and for the benefit thereof, by letters patent, dated 19th Feb. in the 36th year of the reign of King Charles II. No. XIV.

But upon the ſtricteſt ſearch in the offices of the rolls and Auditor general, and alſo in the council and paper offices, for the ſaid paſturage-rent, ſo ſaid to be granted to the Chief governors of this kingdom, I could not find any ſuch grant, or whence it aroſe, or how they became entitled thereto; nor is any mention made thereof in any of the commiſſions to the Chief governors of this kingdom, from the time of the purchaſe of the ſaid park to this day; or in any of the grants of the offices of ranger and keepers thereof; nor in the late grant of the office of bailiff, ſave the liberty of grazing therein, and herein before-mentioned; but I have been informed, from good authority, that £105 was the yearly rent which had been paid for many years to the Chief governors of this kingdom out of the produce of the ſaid paſturage *. Paſturage.

* It has been conceived by ſome, from his Majeſty's ſaid letter of the 20th of April 1763, to the earl of Halifax, then Lord Lieutenant of Ireland, wherein it is directed that the rent of the ſaid paſturage ſhall be no longer paid to the Chief governor or Chief governors, for his or their uſe, but to the commiſſioners of his Majeſty's revenue, for the uſe of his Majeſty, his heirs and ſucceſſors, that ſome antient order or direction had been given to the commiſſioners of exciſe (who are by their commiſſion impowered to collect and receive his Majeſty's hereditary revenue, and all his rents of every kind, in the kingdom) to pay over the ſame to his appointed Chief governors; but as this park is unqueſtionably his Majeſty's private eſtate and inheritance, may it not rather be ſuppoſed that his repreſentative is, as ſuch, entitled to all the iſſues, profits, and emoluments thereof, not otherwiſe diſpoſed of by his Majeſty? And this ſeems to be the better opinion.

I am

No. XIV. Salaries of inferior officers paid thereout.

I am alſo informed, that the ſalaries of the gate keepers and ſervants attending the park, the repairs of the walls thereof, and the ſaid other incidental charges, had always been paid out of the produce of the remainder of the grazing or paſturage of the park, not granted to the ſaid ranger, keepers, and others.

Paſturage rent when ceaſed.

As alſo, that it having appeared to his grace the late duke of Devonſhire, who was chief governor in the year 1737, that the produce of the paſturage not granted as aforeſaid, over and above the ſaid ſum of £105, was not near ſufficient to pay the under keepers and other ſervants, &c. their wages, with the ſaid other incidental charges thereon; his grace therefore relinquiſhed the ſaid £105, ſo payable to him in lieu of paſturage, and that the ſame had never ſince been demanded.

However, it has not yet been ſettled who is to have the management of the paſturage and grazing of the ſaid park, over and above what has been ſo granted by his Majeſty to the ranger, keepers and bailiff, whether the ranger, or any of the ſaid other officers of the park, or the commiſſioners of his Majeſty's revenue at large, or of exciſe; or whether the rents of this paſturage be among the rents which they by their commiſſion are appointed and impowered to collect and receive, and to conſtitute officers under them for the purpoſe; nor hath any rent for the ſame been paid or accounted for, ſince his Majeſty's ſaid letter.

As to the port corn rent, (the hiſtory and account of which are herein before ſet forth,) upon ſearching the rolls and auditor's offices, I diſcovered ſeveral circumſtances relating

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relating thereto, not ſet forth in the conſtats which the Auditor general had returned thereof, purſuant to his Majeſty's ſaid letter; among others, that moſt of the denominations in the Auditor general's ſaid return, appear to have been granted by letters patent from the Crown, in which grants theſe port corn rents are reſerved, as well as an annual rent in money, called a Crown rent; but, as to thoſe which do not appear to have been granted, the aforeſaid rent rolls of Queen Elizabeth are the only evidence of ſuch rent; but, I am to obſerve that leaſes for years, which have long ſince expired, had been made of ſome of them.

And I was informed, by the perſon who uſually received the port corn rent for the chief governors, that the five ſhillings a peck payable by the agreement of the 7th of March 1698, herein before mentioned, page 35, 36, had been continued to be paid according to the aforeſaid agreement, but that at the time of the date of his Majeſty's ſaid letter, ſome of the denominations were in arrear many years, and that others were in arrear but a ſhort time.

And upon the whole of this matter, it is apprehended, and ſuch are the opinions of counſel, on which ſeveral have been conſulted, that where grants appear, they undoubtedly make a ſufficient title to the Crown for the ſeveral reſervations mentioned therein; and that by the grants, the port corn muſt be paid or rendered in kind, if the tenants will not make a compoſition in money for it; but that the aforeſaid agreement in 1698, however it might have bound the then chief governors, cannot now be binding on either the Crown or the tenants, and that therefore the payment of the ſaid compoſition of five ſhillings a peck cannot now be enforced; that the tenants

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are entitled to the aforeſaid allowance or defalcation, for the Crown rent, where ſuch is mentioned in the grants; that the rent rolls of Queen Elizabeth are not, alone, and unſupported by grant or other title of record, ſufficient evidence for the Crown, for the rents which are in charge therein, of which the numbers is but ſmall; that however, if the value by the peck, mentioned in the ſaid rent rolls, was to be paid in lieu of the port corn in kind, his Majeſty would not be any gainer thereby, as the allowance to be made is equal to the ſum the pecks are valued at, and the trouble of the King's officers would be much encreaſed by the additional accounts, which muſt be in conſequence of this allowance; and again, that if the port corn were to be paid in kind, the Crown would be a loſer, as the deduction or defalcation (where ſuch is the caſe) would be greater than the corn could be ſold for, except in the aforeſaid caſe where beeves are reſerved.

I alſo ſearched in the proper offices for the particular circumſtances of each denomination, ſubject to the ſaid rents, in order that the amount of the whole port corn, which had been ſo appointed for the chief governor of this kingdom might be aſcertained, and have in a ſchedule hereunto annexed, ſet forth every denomination charged with the port corn, diſtinguiſhing ſuch as have been granted from thoſe that do not appear to have been granted, and which had formerly been demiſed by leaſes for years from the Crown long ſince expired, but are ſtill in charge in the rent rolls; as alſo thoſe where no evidence of the charge appears but the ſaid rent rolls: And in the ſaid ſchedule are ſet forth the number of pecks charged on each denomination, with the rate the ſame are valued at in the rent rolls, the amount of ſuch value of the corn charged on each denomination, and the amount of the allowance

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allowance or defalcation to be made, with obſervations on ſome tithes in the county of Dublin, which are circumſtanced in a different manner from the other tithes or denominations; to wit, that ſuch tithes ſtand charged in the rent rolls, in the name of the Chief governor, with a certain Crown rent payable by him to the Crown; and the profits accruing to the Lord Lieutenant are not mentioned; as he (as I have been informed) farmed out the tithes for ſuch price or rent as he could get for them; nor does it appear, that the Crown rent of any of them hath been paid to the Crown, except of that of Balliboghil, &c. mentioned in the ſchedule, of which I could not find any grant, though it is in the ſaid rent rolls, and, as I am informed, was the only one that hath been ſet by the Lord Lieutenant.

No. XIV. A SCHEDULE or LIST of the rectories and tithes in the kingdom of Ireland charged with port corn, which had been formerly appointed to be paid to the Lord Lieutenant of this kingdom, the number of pecks they are charged with, and the rate at which they are valued, in the rent rolls of Queen Elizabeth, and the amount thereof, with the amount of the allowance to be made out of the Crown rent charged on the ſaid rectories and tithes for the ſaid port corn, when delivered; diſtinguiſhing ſuch of the ſaid rectories and tithes as appear to have been granted, and thoſe where no evidence of the charge of port corn is at preſent in being but the aforeſaid rent rolls.

And firſt thoſe of which grants are in being.

County of MEATH.

Denominations.	Number of pecks and rate per peck in the rent roll Iriſh money.	Amount of the rate in the rent roll Iriſh money.	Amount of the allowance Iriſh money.
	Pecks s. d.	l. s. d.	l. s. d.
Ballymaglaſſon	20 at 2	2	2
Ratoath	12 at 2	1 4	1 4
Dunſhaghlin	3 at 2	6	6
Trevot	43½ at 2	4 7	4 7
Killiglan	4 at 3 6	14	14
Creekſtown	7 at 2	14	14
Kilpatrick	30 at 2 8	4	4
Donamore near Navan	20 at do.	2 13 4	2 13 4
Donamore near Grenock	40 at do.	5 6 8	5 6 8
Ardſallagh	30 at 2	3	3
Dunboyne	145 at 2	14 10	14 10
Athſey	25 at 2	2 10	2 10

Ratain

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Denominations.	Number of pecks and rate per peck in the rent roll Iriſh money.	Amount of the rate in the rent roll Iriſh money.	Amount of the allowance Iriſh money.
	Pecks s. d.	l. s. d.	l. s. d.
Ratain	25 at 2	2 10	2 10
Robertſtown	10 at do.	1	1
Kilbeg	10 at do.	1	1
Kiltayle	6 at do.	12	12
Culmullin	16 at do.	1 12	1 12
Gallen	16 at 1 4	1 1 4	1 1 4
Balroddan	17 at do.	1 2 8	1 2 8
Kilclone	17 at do.	1 2 8	1 2 8
Flemingſtown	20 at do.	1 6 8	1 6 8
WESTMEATH.			
Triſternagh	80 at 2	8	8
KING'S COUNTY.			
Deſmoy alias Durrow	20 at 1 4	1 6 8	1 6 8
KILDARE.			
Leixlip	24 at 2	2 8	2 8
Confie	40 at 2	4	4
Preceptory Tully	20 at 1 4	1 6 8	1 6 8
Balrath and Mainham	48 at 2	4 16	4 16
Tipper and Craddockſtown	5 at 2	10	10
Johnſtown	10 at 2	1	1
Oughterard	12 at 1 4	16	16
Cardiſtown	12 at 2	1 4	1 4
Hoſpital St. John's, Naas	40 at 2	4	4

Queen's County.

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Denominations.	Number of pecks and rate per peck in the rent roll Iriſh money.	Amount of the rate in the rent roll Iriſh money.			Amount of the allowance Iriſh money.		
		l.	*s.*	*d.*	*l.*	*s.*	*d.*
Irry alias Coolbenger	* Nine beeves and an half and a fifth part of a beef	4	6	4¾	3	12	

* This is taken from the grant; in the rent roll it is charged only with 8 beeves or in lieu thereof £4 16.

County of Cork.

Priory of Rocarbery alias Roſshillary	10 at 2	1			1		

Lowth.

Monaſtery St. John's Ardee	20 at 2	2			2		

Wexford.

Priory Glaſcarrick	42 at 1 7½	3	8		3	7	4

This is charged in the rent roll with fifty pecks at 1 7½ a peck, and the allowance therein is at the ſame rate.

Meath.

MEATH.

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Denominations.	Number of pecks and rate per peck in the rent roll Iriſh money.			Amount of the rate in the rent roll Iriſh money.			Amount of the allowance Iriſh money.		
	Pecks	s.	d.	l.	s.	d.	l.	s.	d.
Rathmollan and Kilogenagan	40 at	2		4			4		
Scurlockſtown	30 at	1	5¼	2	3	1½	2	3	1½.
Donnapatrick alias Dorpatrick	10 at	2		1			1		

DUBLIN.

Balmadown	20 at	1	4	1	6	8	1	6	8

Secondly, thoſe whereof no grants appear and are in charge in the rent roll only, and had formerly been demiſed by leaſes for years.

KILDARE.

Dollardſtown	10 at	2		1			1		

TIPPERARY.

Newtownlenan	20½ at	2		2	3		2	3	

WATERFORD.

Stradbally	6½ at	2		13			13		

DUBLIN.

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DUBLIN.

Cromlin, Grange and Grange trevet	No grant of theſe could be found in the rolls office; but, by a conſtat given by the Auditor general, they had been in leaſe in Queen Elizabeth's reign, with the rectory of Confie in the county Kildare before mentioned, at 40 pecks, which is the charge on the ſaid rectory of Confie.

It does not appear from the rent rolls that any grants have been made of the following denominations, wherein port corn is reſerved; they appear from the Auditor general's conſtats to have been put in charge in the King's rent rolls, at certain yearly rents to be paid by the Chief governor, who might ſet the tithes for what he could; but upon enquiry it hath not been found that the Chief governor ſet the tithes of any of them except Ballyboghill.

	Iriſh money. *l.*	*s.*	*d.*
Tithes of corn and hay of Ballyboghill and others at the yearly rent of	17		
Ditto of Santriff	6		
Ditto of Robuckswalls	1	12	
Ditto of Portmarnock	4	10	
Ditto of Dibber alias Dobber	1	12	
Farm of the ſcite of the hoſpital of St. John of Jeruſalem, and others, at 80 pecks of corn, valued at £13 2*s.* or the yearly rent of	14	11	6

*This was afterwards part of the phœnix park, and excluded for building the hoſpital for antient and maimed officers and ſoldiers of the army of Ireland.

SELECT

SELECT
Writs, Entries, and Pleadings.

Summoniſter's Process.

GEORGE the Third, *&c.* to the ſheriff of the county of R. greeting. As you love yourſelf, and all that is your's, ſee that you have, at our Exchequer in Ireland, on the morrow of All Souls next coming, all the underwritten debts, that is to ſay, fines and amerciaments impoſed, and recognizances forfeited, at a general aſſizes held for the ſaid county the 26th day of September, 1772. Dated at the King's courts, Dublin, the 18th day of June in the year of our reign.

Process of the Pipe.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of R. greeting. Take care, as you love yourſelf, and all belonging to you, that you be and appear before the Treaſurer and Barons of our Exchequer at the King's courts, Dublin, on next coming, and that you have there with you whatſoever you owe us of all the debts underwritten; and that you will levy all and ſingular the ſaid debts, as well of the goods and chattels of the ſeveral debtors undernamed, as of the lands, tenements, and hereditaments, which the ſaid debtors, and every of them, had on the ſeveral days and times whereon the ſeveral debts underwritten were impoſed and forfeited, or at any time after. And if you cannot levy

levy the ſaid ſeveral ſums in manner aforeſaid, then WE command you that you take and attach the ſeveral perſons of the occupiers and tenants undernamed, by his or their body or bodies, ſo that you have them and every of them before the Treaſurer and Barons aforeſaid, at the day and place aforeſaid, to anſwer us for all the debts in this ſummons of the Pipe contained and mentioned. Dated, &c.

The Second Remembrancer's Process.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of greeting. WE command you that you do not omit, by reaſon of any liberty in your bailiwick, but enter the ſame, and levy out of the goods and chattels of the ſeveral perſons named in the ſchedules annexed to this writ, the ſeveral ſums of money charged upon them and each of them in the ſaid ſchedules, or required from them or any of them, ſo that you have that money before the Barons of our Exchequer at the King's courts, Dublin, without delay, and from time to time as you ſhall levy the ſame. And if it ſhall happen that the goods and chattels of the ſaid perſons in the ſaid ſchedules named, or any of them, are not ſufficient in your bailiwick for payment of the ſeveral ſums of money charged upon them, and each of them, in the ſaid ſchedules, then you ſhall not omit, by reaſon of any liberty in your bailiwick, but enter the ſame, and take the bodies of the ſaid ſeveral perſons, and each of them, not having goods (peers, lords, and ladies only excepted) wherever you ſhall find them in your bailiwick, and keep them in ſafe cuſtody in your priſon, until they have fully ſatisfied us the ſeveral debts charged upon them and each of them in the ſaid ſchedules. And you ſhall diligently enquire, as well by the oaths of good and lawful men of your bailiwick, by whom the truth of the matter can be better known and enquired into, as by all other ways, means, and methods by which you can better know or enquire, what lands and tenements, and of what yearly value, the ſaid ſeveral perſons in the ſaid ſchedules named, or any of them, had in your bailiwick, the ſeveral days and years ſpecified in the ſaid ſchedules, in which they or any of them firſt became indebted to us in the ſeveral ſums in the ſaid ſchedules, or ever after until this time; and all thoſe lands and tenements of our ſaid debtors and each of them, in whoſoever hands they now are, you ſhall cauſe diligently to be extended into your hands by the oaths of the ſaid good and lawful men of your bailiwick. And if any perſon or perſons in the ſaid ſchedules named are dead, then you ſhall not omit, by reaſon of any liberty

liberty in your bailiwick, but enter the ſame, and diligently enquire, as well by the oaths of the ſaid good and lawful men of your bailiwick, by whom the truth of the matter can be better known and enquired into, as by all other ways, means, and methods aforeſaid, on what day and in what year, and where the ſaid ſeveral perſons and each of them died, and what goods and chattels, and of what kind and value, the ſaid ſeveral perſons ſo deceaſed, or any of them, had in your bailiwick the ſeveral days and years in which they or any of them died, and to whoſe hands the goods and chattels came after the death of the ſaid ſeveral perſons ſo deceaſed, and in whoſe hands they now are; alſo what lands and tenements, and of what yearly value, the ſaid ſeveral perſons ſo deceaſed, or any of them, had in your bailiwick the ſeveral days and years in which they or any of them firſt became indebted to us in the ſeveral ſums charged upon them in the ſaid ſchedules, or ever after until this time, and who have or hath had or received the iſſues and profits of the ſaid lands and tenements ariſing from the time of the death of the ſaid ſeveral perſons ſo deceaſed, or now do or doth receive and enjoy the ſame; and all and ſingular the goods and chattels, lands and tenements, of our ſaid debtors and each of them, as well alive as deceaſed, in whoſoever hands they are, you ſhall take and cauſe to be ſeized into our hands, that we may have them until we ſhall be fully ſatisfied the ſeveral debts in the ſaid ſchedules ſpecified; and you ſhall keep them ſafe and ſecure, ſo that you may anſwer unto us at our pleaſure out of the ſaid goods and chattels, or the worth or value thereof, and out of the iſſues and profits of the ſaid lands and tenements of the ſaid ſeveral perſons, and of each of them, ſo taken and ſeized into our hands. And what goods and chattels, and of what kind and value, alſo what lands and tenements, and of what yearly value, belonging to the ſaid ſeveral perſons, and each of them, you ſhall have taken into our hands by reaſon of the premiſſes, and where, together with the days of ſeizing the ſame into our hands, you ſhall make appear to the Barons of our Exchequer at the King's courts aforeſaid, on the morrow of All Souls next enſuing. WE further command you, and give you power by theſe preſents to call any perſons before you that are proper to be examined in and about the premiſſes, and to examine them diligently in and about the premiſſes, leſt this our command ſhould remain unexecuted; * WE command you alſo that

* Thus, in Gilb. Exch. p. 120, which ſeems a better and more legal form; "And we command you that you diſtrain all the executors of the laſt will and teſtament of the ſeveral perſons ſo deceaſed, and the adminiſtrators and occupiers of the goods

that you diſtrain in the manner aforeſaid all the lands and chattels in your bailiwick of all the executors of the ſeveral laſt wills and teſtaments of the ſaid ſeveral perſons deceaſed, and of each of them; alſo the lands and chattels of the heirs and tenants of the lands and tenements which were lately theirs, ſo that you have their bodies before the Barons of our Exchequer aforeſaid, at the day and place aforeſaid, to anſwer to us for the ſaid ſeveral perſons the ſeveral debts aforeſaid, which are not yet anſwered unto us, PROVIDED always that if our ſaid debtors or any of them ſhall ſhew unto you any acquittances, teſtifying the payment of any of the ſaid ſums in the ſaid ſchedules ſpecified, or of any part thereof, or alledge any other ſufficient diſcharge for the ſaid ſums or any part thereof, then taking ſufficient ſecurity from them, and each of them, you ſhall aſſign him, her, or them, a day of appearance here before our ſaid Barons at the day and place aforeſaid, to receive upon ſuch acquittances or diſcharges what ſhall be conſiſtent with juſtice; and in the mean time ſtay the levying of the ſums of money contained in ſuch acquittances or diſcharges. And in what manner you have executed this our command you ſhall make known to our ſaid Barons at the day and place aforeſaid, and have then and there the names of the jurors, alſo the names of the executors, heirs, and tenants aforeſaid, and this writ. WITNESS Anthony Foſter Chief Baron of our ſaid court of Exchequer, at the King's courts aforeſaid, the day of the year of our reign.

A WRIT of LEVARI upon a judgment obtained by the Crown on a Bond.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of greeting. WHEREAS it hath been adjudged by the Barons of our court of Exchequer at the King's courts, Dublin, that WE ſhould have execution againſt J. S. for the ſum of £ which he owes us by his obligation bearing date as by the inſpection of the rolls and

goods and chattels which were theirs at the time of their death, as alſo the heirs and tenants of the lands and tenements which were theirs on the ſeveral years and days in which they became indebted to us in the ſeveral ſums charged upon them reſpectively in the ſaid ſchedules, or ever after until this time, by all their lands and chattels in your bailiwick, ſo that neither they nor any one by them la. hands upon them until we otherwiſe command you, and that out of the iſſues of the ſame lands you ſatisfy us; ſo that you have their bodies, &c."

other

other memorandums of our Exchequer to us appears of record; WE therefore now command you that you do not omit, by reaſon of any liberty in your bailiwick, as well within a liberty as without, but you ſhall enter in it and diligently enquire, as well by the oaths of good and lawful men of your aforeſaid bailiwick, as by all other ways and means, by which you may the better be able to know or find what goods and chattels, and of what price, as alſo what lands and tenements, and of what yearly value, or extent, the ſaid J. S. had in your aforeſaid bailiwick on the day and year which his obligation was executed, or at any time ſince, and in what perſon or perſons, hands and poſſeſſion they now remain, or were lately; and you ſhall ſeize, levy, and make to be in your hands, all and ſingular the goods and chattels, lands and tenements, for our uſe; and you ſhall have appraiſed, valued, and extended, all and ſingular theſe things by the oaths of good and lawful men of your bailiwick; and without delay you ſhall ſell, or cauſe to be ſold, all and ſingular theſe things ſo appraiſed and valued, at as high a price as you can, to all perſons that are willing to buy them, by the tenor of theſe preſents; ſo that you have ready the money thence coming or ariſing, or by any means to ariſe, or the price or value of them, and alſo the iſſues, profits, and other commodities, ariſing out of the lands and tenements aforeſaid, before the Barons of our Exchequer at the King's courts, Dublin next coming, then and there to be paid and applied for our uſe; and you ſhall make appear what goods and chattels, and of what price, and alſo what land, and what tenements, and of what yearly value, or extent, of the aforeſaid J. S. you have ſeized, or cauſed to be ſeized in your hands, for our uſe, for the reaſons aforeſaid, and when, together with the days of the caption, according to their true value, by an inquiſition diſtinctly and openly taken before you, to our ſaid Barons at the day and place aforeſaid, under your ſeal; and further WE in the form aforeſaid command you that you take the ſaid J. S. whereſoever he may be found in your aforeſaid bailiwick, and him in ſafe and ſecure cuſtody keep, ſo that you have his body before the Barons of our Exchequer at the King's courts, Dublin, at the time and place aforeſaid, to anſwer us for the ſum aforeſaid, to ſhew why he has refuſed to do this, and further to do and receive in the premiſſes what our aforeſaid court of Exchequer then and there ſhall order, and this you ſhall not omit under the penalty of one hundred pounds ſterling. WITNESS Anthony Foſter, eſq; Chief Baron of our ſaid Exchequer at the King's courts aforeſaid, the day of in the year of our reign.

Clanbraſſill.

A WRIT of Seiſure for arrears of rent due to the Crown.

GEORGE the Second by the grace of God, &c. to the ſheriff of the county of Dublin, greeting. Whereas the premiſſes in a ſchedule to this writ annexed mentioned are indebted to us and in arrears the ſum of money in the ſaid ſchedule ſpecified, as by an inſpection of the rolls and other memorandums of our Exchequer appears, which ſaid ſum the tenants of the ſaid premiſſes have not as yet paid, in contempt of us and to the great damage and prejudice of our royal prerogative, WE therefore now command you, that you do not omit by reaſon of any liberty in your bailiwick, but that you enter the ſame, and cauſe the ſaid premiſſes to be taken, ſeiſed and extended into your hands for our uſe; and that you diligently enquire as well by the oaths of honeſt and lawful men of your ſaid bailiwick, as by all other ways and means by which you can better know how much the yearly value of the ſaid premiſſes is, ſo that the true value thereof you anſwer to us; and whatſoever you do in the premiſſes you are to make manifeſt to the Barons of our Exchequer at the King's courts Dublin in eight days of the purification of the bleſſed Virgin Mary next coming, by inquiſition diſtinctly and openly taken under your and their ſeals, and have you then there this writ witneſs Anthony Foſter, eſq; chief Baron of our Exchequer aforeſaid, at the King's court, aforeſaid, the 28th day of November in the 25th year of our reign.

A CUSTODIAM.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to all perſons to whom our preſent letters ſhall come, greeting. KNOW YE that WE of our ſpecial grace, certain knowledge and mere motion, and alſo by the advice and conſent of our truſty and well beloved counſellor Edward Willes, eſq; chief Baron of our Exchequer of our kingdom of Ireland, have given and commanded, and by theſe preſents do for us our heirs and ſucceſſors give and commit to Gorges Edmond Howard, eſq; for our uſe, the cuſtody and farm of the tythes of Carlingford in the barony of Dundalk in the county of Louth, of the clear yearly value of five pounds eight ſhillings ſterling above reprizals, which for certain cauſes are new in our hands, to have and to hold all and ſingular the premiſſes before recited and every part and parcel thereof to the ſaid Gorges Edmond Howard and his aſſigns during our pleaſure, rendering thereout yearly and every year to us, our

our heirs and ſucceſſors, at the receipt of our Exchequer of our ſaid kingdom of Ireland, five ſhillings of lawful money of Great-Britain at the feaſt of St. Michael the Archangel and Eaſter, to be paid by equal portions over and above the yearly rent and arrears thereof payable to us out of the premiſſes, altho no expreſs mention be made herein of the true yearly value of the premiſſes, or any part or parcel thereof, or of any gift or grant heretofore made by us, or any of our progenitors, to the ſaid Gorges Edmond Howard, or any other perſon or perſons whomſoever, any ſtatute or other cauſe matter or thing to the contrary notwithſtanding. In witneſs whereof WE have cauſed theſe our letters to be made patent. Witneſs Edward Willes, eſq; chief Baron of our Exchequer aforeſaid, at the King's courts Dublin, the 2d day of June in the firſt year of our reign.

John Butler clerk of the pipe and I. G. R.

(By order of court and by the Barons.)

INJUNCTION to put the Cuſtodee in poſſeſſion, and ſheriff's return thereon.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of T. greeting. WHEREAS by our letters patent under the ſeal of our court of Exchequer in Ireland, WE have given and granted to our well beloved G. E. H. eſq; or his aſſigns for our uſe the cuſtody and farm of K. in the county of T. late in the poſſeſſion of H. P. eſq; late ſheriff of ſaid county, Therefore we command and ſtrictly enjoin you, that immediately after ſight or receipt hereof, you remove or cauſe to be removed all and ſingular the farmers, and occupiers of the ſaid lands and premiſſes from the poſſeſſion thereof, and give or cauſe to be given unto the ſaid G. E. H. or his aſſigns the full quiet and peaceable poſſeſſion of the ſaid premiſſes, and every part and parcel thereof, and him the ſaid G. E. H. or his aſſigns in ſuch quiet and peaceable poſſeſſion of the ſaid premiſſes to ſupport, help, and maintain, from time to time, as often as occaſion ſhall require; and what you ſhall do in the premiſſes you ſhall certify to the Barons of our ſaid court of Exchequer, at the King's courts Dublin in eight days of St. Hillary next coming, together with this writ, and herein fail not under the penalty of £500 ſterling. Witneſs Anthony Foſter eſq; chief Baron of our ſaid court of Exchequer at the King's courts aforeſaid, the 17th day of December in the 14th year of our reign.

RETURN.

RETURN.

By virtue of the within writ to me directed I have given poſſeſſion of the within lands and premiſſes to the within named G. E. H. eſq; this 20th day of January 1775.

So anſwers

Theobald Butler, ſheriff.

ORDER on a CUSTODIAM for the tenants to pay their rents to the Cuſtodee, where it is a ſuit between party and party.

County of L.

WHEREAS the town and lands of K. in the ſaid county, late the poſſeſſion of I. T. of B. in the ſaid county, eſq; who was outlawed at the ſuit of I. S. merchant, were granted in cuſtodiam to the ſaid T. now Mr. T. attorney on behalf of the ſaid cuſtodee this day informed the court, that an injunction had iſſued on the ſaid cuſtodiam, and that by virtue thereof the ſheriff of the ſaid county had on the 27th of February laſt paſt put the ſaid cuſtodee into the actual and quiet poſſeſſion of the ſaid premiſſes, and therefore prayed that the ſeveral tenants of the ſaid premiſſes may be obliged to pay their reſpective rents thereof to the ſaid cuſtodee or his order, one half year before the other becomes due; Whereupon, and on reading the ſaid injunction and ſheriffs return thereon, it is this day ordered by the court that the ſeveral tenants of the ſaid premiſſes do pay their reſpective rents thereof to the ſaid cuſtodee or his order one half year before the other becomes due as is deſired.

(a true copy.) A. Foſter.
Richard Morgan.

FORM of a Letter of Attorney to demand or receive rents on the above order.

WHEREAS the lands of &c. late the poſſeſſion of A. B. of &c. who was outlawed at the ſuit of C. D. of &c. was granted in cuſtodiam to the ſaid C. D. and whereas an order was made in his Majeſty's court of Exchequer on the day of &c. by which it was ordered, that the ſeveral tenants of the premiſſes in the ſaid order mentioned ſhould pay their reſpective rents due by them thereout the day of &c. to the ſaid C. D. or his order by the day of &c. then next, and alſo their accruing rents to the ſaid cuſtodee or his order, one half year before the other becomes due. NOW know

know all men by theſe preſents, that I the ſaid C. D. have made, ordained, conſtituted, and appointed, and by theſe preſents do make, conſtitute, and appoint W. C. of &c. my true and lawful attorney for me, and in my name, and for my uſe, to aſk, demand, and receive from the ſeveral tenants of the premiſſes in the ſaid recited order mentioned, the rents due by them reſpectively thereout, the day of &c. and the rents that have ſince accrued due thereout, and alſo the accruing rents; and when received to give and perfect for me and in my name good and ſufficient diſcharges for the ſame, and generally to act and do in the premiſſes as fully to all intents and purpoſes as if I the ſaid C. D. were preſent, and did the ſame in my own perſon, hereby ratifying and confirming whatever my ſaid attorney ſhall ſo or lawfully cauſe to be done in the premiſſes by virtue of the ſaid preſents.

SCIRE FACIAS for the recovery of arrears of quit rent, and judgment thereon.

RECORDS before the Treaſurer and Barons at the King's courts Dublin, of the term of in the year of the reign of George the Third now King of Great-Britain and ſo forth.

County of Galway } BE IT REMEMBERED, that it appears in the
to wit. } office of the Treaſurer's remembrancer, and ſecond remembrancer of the Exchequer, that in the term of in the year of the reign of our Sovereign lord the King that now is, the writ of the ſaid lord the King under the ſeal of this Exchequer by the conſideration of the ſaid Treaſurer and Barons, iſſued in theſe words, to wit. GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of Galway, greeting. WHEREAS it is found in the office of our Auditor general among the records there, that there are charged upon the towns and lands of Benmore and Benbeg in the ſaid county, containing 468 acres plantation meaſure, Bracklonbegg otherwiſe Blacklenbegg in the ſaid county, containing 67 acres like meaſure, and a moiety of Liſquoile otherwiſe Liſquile in the ſaid county containing 77 acres like meaſure, the ſeveral yearly ſums following for the quit rent of the ſame, to wit, for the ſaid lands of Benmore and Benbeg 4*l.* 14*s.* 9*d.* for the ſaid lands of Bracklonbegg 13*s.* 6¾*d.* and for a moiety of ſaid lands of Liſquoile 15*s.* 7¾*d.* And WHEREAS it is found in the ſaid office of our ſaid Auditor general, among

among the records thereof, that there remains due and in arrear to us for the ſaid ſeveral quit rents to and for the 29th day of September, in the year of our lord 1768, O. S. the ſeveral ſums following, to wit, for the ſaid lands of Benmore 236*l.* 17*s.* 6*d.* for the ſaid lands of Bracklonbegg 33*l.* 4*s.* 6¾*d.* for the ſaid moiety of the lands of Liſquoile the ſum of 38*l.* 4*s.* 7½*d.* as by the ſaid records and other memorandums in our court of Exchequer appears to us of record, which ſaid ſeveral ſums and every part thereof ſtill remain due and unſatisfied, to the grievous damage and prejudice of our royal prerogative; WE therefore command you that you do not omit, by reaſon of any other liberty in your ſaid bailiwick, but that you enter the ſame, and by good and lawful men of your bailiwick you give notice to the ſeveral and reſpective terre-tenants of the ſaid ſeveral lands, that they be before the Barons of our Exchequer in the King's courts, Dublin, on the morrow of the Holy Trinity next coming, to ſhew cauſe if any they can, wherefore the ſaid ſeveral ſums ſo due and in arrear ſhould not be levied out of the ſaid ſeveral and reſpective lands on which they are charged as aforeſaid, or why in default of payment of the ſaid ſeveral ſums the ſaid ſeveral and reſpective lands chargeable with payment of the ſaid ſeveral and reſpective ſums ſhould not be ſeiſed into our hands, and further to do and receive whatſoever our ſaid court ſhall then and there conſider in this behalf, and have you then and there the names of thoſe by whom you ſhall give them notice, and this writ; Witneſs A. F. eſq; chief Baron of our ſaid Exchequer, at the King's courts aforeſaid, the 2d day of May in the 10th year of our reign. At which day came the right honourable P. T. his Majeſty's Attorney general on behalf of our ſaid lord the King, and deſired a return of the ſaid writ; and the ſheriff of the ſaid county, namely R. E. now returns that by virtue of the ſaid writ to him directed, he had by L. W. and T. F. good and lawful men of his bailiwick given notice to M. D. terre-tenant of the town and lands of Benmore and Benbeg, Bracklonbeg otherwiſe Blacklenbeg, and a moiety of Liſquoil otherwiſe Liſquile in the ſaid writ named, and to I. M. *&c.* alſo terre-tenants of the ſaid towns and lands of Benmore and Benbeg, alſo to F. D. *&c.* alſo terre-tenants of the ſaid towns and lands of Bracklonbeg otherwiſe Blacklenbeg, as alſo to B. M *&c.* terre-tenants alſo of the moiety of the lands of Liſquoil otherwiſe Liſquile, that they and each and every of them ſhould be and appear before the Barons of his Majeſty's court of Exchequer in the ſaid writ mentioned, at the day and place in the ſaid writ mentioned, to ſhew cauſe as by the ſaid writ they are required, and as thereby he was commanded, and did further certify that there were not any other terre-tenants, nor was there

there any other terre-tenants of the town and lands aforeſaid, or any of them to whom he could give notice as by the ſaid writ he was commanded; and hereupon the ſaid Philip Tiſdall, Attorney general of our ſaid lord the King, prays execution againſt the ſaid M. D. &c. for the ſaid ſeveral and reſpective ſums ſo due and in arrear, to be levied off the ſaid ſeveral and reſpective lands on which they are charged as aforeſaid, and ſo forth. And becauſe the Treaſurer and Barons aforeſaid are willing to conſider of and concerning the premiſſes before they give their judgment therein, a day is given here until the morrow of All Souls to hear their judgment therein, and to the ſaid M. D. &c. to appear and plead if they are willing. On which day the ſaid Philip Tiſdall, Attorney general of our ſaid lord the King, comes here as before; and becauſe the ſaid Treaſurer and Barons thereof are not yet adviſed, a day is given here until eight days of Hillary to hear their judgment thereon, and to the ſaid M. D. &c. to appear and plead if they are willing. On which day the ſaid Philip Tiſdall, Attorney general of our ſaid lord the King, comes here as before; and becauſe the ſaid Treaſurer and Barons are not yet adviſed, a day is given here until fifteen days, &c. to hear their judgment, and to the ſaid M. D. &c. to appear and plead if they are willing. On which day came here the ſaid Philip Tiſdall, Attorney general of our ſaid lord the King, and the ſaid M. D. &c. nor any of them though ſolemnly required came not but made default; and hereupon the ſaid Philip Tiſdall, Attorney general of our ſaid lord the King, on behalf of our ſaid lord the King, as before prays execution againſt the ſaid M. D. &c. for the ſaid ſeveral and reſpective ſums ſo due and in arrear to be levied off the ſaid ſeveral and reſpective lands on which they are charged as aforeſaid. Therefore it is conſidered that the ſaid Attorney general on behalf of the ſaid lord the King have execution againſt the ſaid M. D. &c. for the ſaid ſeveral and reſpective ſums ſo due and in arrear as aforeſaid, to be levied off the ſaid ſeveral and reſpective lands on which they are charged as aforeſaid by their default.

WARRANT from the lords juſtices to the lord chancellor to iſſue a commiſſion of enquiry of the eſtate of an Alien.

By the lords juſtices general and general governors of Ireland.

Kildare.

WHEREAS it has been repreſented to us, that Daniel de Bernatre was born an alien, and has lately died without heir, and that the ſaid Daniel de Bernatre purchaſed ſeveral lands, tenements, and hereditaments in the county of Cavan, in the kingdom of Ireland, which by reaſon of the diſability of the ſaid Daniel to purchaſe, or by his death without heir, are now rightfully veſted in his Majeſty, WE hereby pray and require your lordſhip, to cauſe a commiſſion in due form of law to be paſſed under the great ſeal of this kingdom, directed to the honourable A. Dawſon, eſq; Boleyn Whitney, eſq; &c. or any three or more of them, whereof the ſaid A. Dawſon or Boleyn Whitney to be always one, and authorize them to be commiſſioners in the ſaid county of Cavan, from time to time to enquire, find out, and fully inform themſelves, as well by the oaths of good and lawful men of the ſaid county of Cavan, to be impanelled and returned by the ſheriff of the ſame county, and by the examination of witneſſes upon oath, which oath the ſaid commiſſioners or any three or more of them as aforeſaid, are by the ſaid commiſſion to have power to adminiſter, as alſo by any other lawful ways and means whatſoever, which the ſaid commiſſioners or any three or more of them as aforeſaid, in their diſcretion ſhall think fit, whether the ſaid Daniel de Bernatre was born an alien, and whether he is dead, and who is heir to the ſaid Daniel de Bernatre, and in caſe the ſaid Daniel was born an alien or is dead without heir, then to inquire, find out, and inform themſelves in manner aforeſaid, whether the ſaid Daniel purchaſed or died ſeiſed of any and what lands, tenements, or hereditaments in the county of Cavan aforeſaid, and of what eſtate; in which commiſſion are to be inſerted all ſuch powers and authorities as may make the ſame firm, valid, and effectual, and the ſame is to be returnable into the high court of Chancery with all convenient ſpeed, and at fartheſt by the firſt return of next Trinity term, and for ſo doing this ſhall be your lordſhip's ſufficient warrant. Given at his Majeſty's caſtle of Dublin, the day of 1756. By their Excellencies

To our very good lord chancellor of Ireland. Henry Meredyth.

The

The LORD CHANCELLOR'S WARRANT.

By the Lord Chancellor of Ireland.

C. D. clerk of the Crown and Hanaper.

LET a commiſſion be forthwith prepared in form, purſuant to the tenor of the within warrant, and preſent the ſame to me to paſs the great ſeal, and for your ſo doing this ſhall be your warrant, dated this day of 1756.

J. Bowes, C.

The FORM of a commiſſion under the great ſeal to enquire whether if a perſon was an Alien, and what eſtates he had purchaſed or died ſeized of.

GEORGE the ſecond, and ſo forth, to our truſty and well beloved Arthur Dawſon, eſq; &c. greeting. Know ye that WE repoſing ſpecial truſt and confidence in your care, wiſdom, and provident circumſpection, of our ſpecial grace, knowledge, and mere motion, by and with the advice and conſent of our right truſty and well beloved couſins and counſellors, James earl of Kildare, and Brabazon earl of Beſborough, our juſtices general, and general governors of our ſaid kingdom of Ireland, have nominated, conſtituted, ordained, and appointed, and by theſe preſents do nominate, conſtitute, ordain, and appoint you the ſaid Arthur Dawſon, eſq; &c. or any three or more of you, whereof the ſaid Arthur Dawſon or the ſaid, &c. to be always one, to be our commiſſioners in our county of Cavan. And WE do hereby give unto you or any three or more of you, whereof the ſaid Arthur Dawſon or the ſaid, &c. to be always one, full power and authority to iſſue forth your warrant or warrants to the high ſheriff of our ſaid county of Cavan, thereby directing and requiring him to impanel and return before you the ſaid commiſſioners, or any three or more of you as aforeſaid, at a certain time and place, or at certain times and places, to be appointed by you or any three or more of you as aforeſaid, within the ſaid county, a ſufficient jury, who upon their oaths, and by the examination of witneſſes upon oath, (which oath you our ſaid commiſſioners, or any three or more of you as aforeſaid, are hereby impowered to adminiſter)

* Note, the two going judges of aſſize, and ſeveral noblemen and gentlemen of the county were commiſſioners, but the eſcheator of the province or his deputy were not in the commiſſion; but at this time there was no eſcheator for the province of Ulſter.

as alſo by all other lawful ways and means whatſoever, are to enquire, find out, and fully inform themſelves, whether Daniel de Bernatre was born an alien, and whether he is dead, and who is heir to the ſaid Daniel, and in caſe the ſaid Daniel was born an alien, or is dead without heir, then to enquire, find out, and fully inform themſelves in manner aforeſaid, whether the ſaid Daniel de Bernatre purchaſed or died ſeiſed of any and what lands, tenements, or hereditaments, in our county of Cavan aforeſaid, and of what eſtate. And you our ſaid commiſſioners, or any three or more of you as aforeſaid, are hereby required to return into our high court of Chancery in this our kingdom, the verdict or inquiſition which ſhall be found by the ſaid jury, with all convenient ſpeed, and at fartheſt on the morrow of the Holy Trinity next enſuing, to be entered among our records of our ſaid court. IN WITNESS whereof we have cauſed this our commiſſion to be made patent. Witneſs, &c.

PRECEPT to the ſheriff on the aforeſaid commiſſion.

WHEREAS there iſſued forth of his Majeſty's high court of Chancery in Ireland, and under the ſeal thereof, his Majeſty's commiſſion of inquiry bearing date the day of inſtant, directed to Arthur Dawſon, eſq; &c. authorizing them or any three or more of them, whereof the ſaid Arthur Dawſon, &c. to be always one, to be commiſſioners in the county of Cavan, to inquire, find out, and fully inform themſelves, whether Daniel de Bernatre was born an alien, and whether he is dead, and who is heir to the ſaid Daniel, and in caſe the ſaid Daniel was born an alien, or is dead without heir, then to enquire, find out, and fully inform themſelves in manner aforeſaid, whether the ſaid Daniel de Bernatre purchaſed or died ſeiſed of any and what lands, tenements, and hereditaments, in our county of Cavan aforeſaid, and of what eſtate; WE therefore, the ſaid Arthur Dawſon, &c. [here inſert thoſe that ſign] do by virtue of the power and authority granted to us by the ſaid commiſſioners, require and command you to impanel and return before us, or any three or more of us, whereof the ſaid Arthur Dawſon, &c. to be one, at in the county of Cavan aforeſaid, on the day of a jury of ſufficient, good, and lawful men of the county of Cavan aforeſaid, to enquire of and concerning the premiſſes, and to proceed on the execution of the ſaid commiſſion therein and thereby directed, wherein you are not to fail, and for your ſo doing this ſhall be your ſufficient warrant. Given under our hands and ſeals this day of 17

To the ſheriff of the county of Meath.

Arthur Dawſon, &c.

INQUISITION

INQUISITION on the aforeſaid commiſſion, finding a perſon an Alien, &c.

County of Cavan, } An inquiſition indented, taken at Cavan in the
to wit, } ſaid county of Cavan the day of
in the thirtieth year of the reign of our Sovereign Lord GEORGE the ſecond, &c. before Arthur Dawſon, Alexander Saunderſon, and George Montgomery, eſqrs.

BY virtue of the annexed commiſſion of our ſaid Lord the King, iſſued forth of the high court of Chancery of our ſaid Lord the King in Ireland, and under the ſeal of the ſaid court of Chancery, bearing date the 5th day of April inſtant, in the ſaid thirtieth year of the reign of our ſaid Lord the King, John Neaitch of, &c.—&c. all in the ſaid county of Cavan, gentlemen, being duly impanelled and returned by force of the ſaid commiſſion, and ſworn upon the holy Evangeliſts, to enquire whether Daniel de Bernatre was born an alien, or whether he is dead, and who is heir to the ſaid Daniel de Bernatre; and in caſe the ſaid Daniel de Bernatre was born an alien, or is dead without heir, then to enquire whether the ſaid Daniel de Bernatre purchaſed and died ſeiſed of any and what lands, tenements, or hereditaments, in the county of Cavan aforeſaid, and of what eſtate, upon their oaths ſay, that Daniel de Bernatre, in the aforeſaid commiſſion named, was born an alien in the kingdom of France, and a ſubject to the French King, and that the ſaid Daniel de Bernatre is dead; and the ſaid jurors further upon their oaths ſay, that J. C. of &c. was on the 7th day of February, in the year 1734, ſeiſed in fee ſimple of the ſeveral towns and lands of &c. ſituate &c. And that the ſaid J. C. on the ſaid 7th day of February, 1734, by deeds of leaſe and releaſe by him duly executed, bearing date the 6th and 7th days of February, 1734, made or mentioned to be made between, &c. [here ſet forth the contents of the deeds, which in this caſe was a mortgage.] And the ſaid jurors upon their oaths ſay, that the ſaid ſeveral lands and premiſſes, by force and virtue of the ſaid conveyance, became veſted in his Majeſty and his heirs, ſubject to the proviſo and condition of redemption in the ſaid deed of releaſe mentioned, he the ſaid Daniel de Bernatre being born an alien as aforeſaid. In teſtimony whereof the above-named Arthur Dawſon, Alexander Saunderſon, and George Montgomery, as alſo the jurors aforeſaid, have to this inquiſition affixed their hands and ſeals the day, year, and place firſt above written.

MEMORIAL

MEMORIAL of the commiſſioners of the revenue to the lords juſtices, to direct commiſſions of enquiry to iſſue under the great ſeal, on the ſtatutes of MORTMAIN.

May it pleaſe your Excellencies,

That his Majeſty's Prime ſerjeant, Attorney and Solicitor general, and Mr. Gore, are of opinion, that ſeveral commiſſions of enquiry ought to be iſſued under the great ſeal, to veſt in his Majeſty the lands deviſed by the late Dr. Baldwin to the college of Dublin, and thereby forfeited to the Crown by the ſtatutes of mortmain.

And we are therefore to pray, that your Excellencies will grant warrants for commiſſions to be paſſed under the great ſeal, for the ſeveral counties following, to wit:

WARRANT of the lords juſtices to the lord chancellor, to iſſue a commiſſion of enquiry on the ſtatutes of MORTMAIN.

Geo. Armagh, *&c.*

WHEREAS it has been repreſented to us, that Richard Baldwin, doctor in divinity, late provoſt of Trinity college, Dublin, deceaſed, did by his will deviſe ſeveral lands, tenements, and hereditaments, ſituate in the counties of Louth, Meath, Catherlough, Dublin, Weſtmeath, Kildare, Fermanagh, Wicklow, Downe, King's and Queen's counties, to the ſaid college, to which his Majeſty is become entitled by the ſtatutes of mortmain, and that it is neceſſary that commiſſions of enquiry do iſſue under the great ſeal to veſt the ſame in his Majeſty; WE hereby pray and require your lordſhip to cauſe commiſſions in due form of law to be paſſed under the great ſeal of this kingdom, to be directed to the ſeveral following commiſſioners for the county of Dublin, to wit, to his excellency John Ponſonby, eſq; *&c.* [ſo name the other commiſſioners] or any three or more of them, whereof the ſaid John Ponſonby or, *&c.* to be always one, and authorizing them to be commiſſioners in the ſaid county of Dublin, from time to time, to enquire, find out, and fully inform themſelves, as well by the oaths of good and lawful men of the ſaid county of Dublin, to be impanelled and returned by the ſheriff of the ſame county, and by the examination of witneſſes upon oath, which oath the ſaid commiſſioners, or any three or more of them as aforeſaid, are by the ſaid commiſſion to have power to adminiſter, as

alſo

alſo by all other lawful ways and means whatſoever, which the ſaid commiſſioners, or any three or more of them as aforeſaid, in their diſcretion ſhall think fit, whether the provoſt, fellows, and ſcholars of the college of the holy and undivided Trinity of Queen Elizabeth, near Dublin, have at any time, and when, purchaſed or become ſeiſed of any lands, tenements, or hereditaments, within the ſaid county of Dublin, contrary to the ſeveral ſtatutes in force in the kingdom of Ireland to prohibit alienations in mortmain, and of whom ſuch lands, tenements, or hereditaments, are holden, and by what rent or ſervices. In which commiſſion are to be inſerted all ſuch powers and authorities as may make the ſame firm, valid, and effectual, and the ſame is to be returnable into the high court of Chancery with all convenient ſpeed, and at fartheſt by the laſt return of next term, and for ſo doing this ſhall be your lordſhip's ſufficient warrant. Given at his Majeſty's caſtle of Dublin the day 17

To our very good lord the lord chancellor of this kingdom. } By their Excellencies command, Tho. Waite.

The Lord Chancellor's Warrant.

By the Lord Chancellor of Ireland:

clerk of the Crown and Hanaper.

LET a commiſſion be forthwith prepared purſuant to the tenor of the within warrant, and preſent the ſame to me to paſs the great ſeal, and for your ſo doing this ſhall be your warrant. Dated this,

Commission of Enquiry on the ſtatutes of Mortmain.

GEORGE the ſecond, &c. to our truſty and well beloved counſellor John Ponſonby, eſq; ſpeaker of our Houſe of Commons in Ireland, &c. [here name all the commiſſioners], greeting. Know ye that WE repoſing ſpecial truſt and confidence in your care, wiſdom, and provident circumſpection, of our eſpecial grace, certain knowledge, and mere motion, and by and with the advice and conſent of our right truſty and right entirely beloved counſellors, George archbiſhop of Armagh, primate of all Ireland, &c. our juſtices general and general governors of our ſaid kingdom of Ireland, have nominated, conſtituted, ordained, and appointed, and by theſe preſents do nominate, conſtitute, ordain, and appoint you the ſaid John Ponſonby, &c. [here name all the commiſſioners] or any three or more of you, whereof the ſaid Edward Willes or, &c. to be always one, to be our commiſſioners in our county of Dublin in our kingdom of Ireland;

Ireland; And WE do hereby give unto you, or any three or more of you, whereof the ſaid Edward Willes, or, &c. to be always one, full power and authority to iſſue forth your warrant or warrants to the ſheriff of our county of Dublin aforeſaid, thereby directing and requiring him to impanel and return before you our ſaid commiſſioners, or any three or more of you as aforeſaid, within our ſaid county, a ſufficient jury or juries, upon whoſe oaths, and by the examination of witneſſes upon oath, which oaths you the ſaid commiſſioners, or any three or more of you as aforeſaid, are hereby impowered to adminiſter, as alſo by all other lawful ways and means whatſoever, to enquire, find out, and fully inform yourſelves, whether the provoſt, fellows, and ſcholars of the college of the holy and undivided Trinity of Queen Elizabeth, near Dublin, have at any time, and when, purchaſed or become ſeiſed of any lands, tenements, or hereditaments, within our ſaid county of Dublin, contrary to the ſeveral ſtatutes in force in our ſaid kingdom of Ireland to prohibit alienations in mortmain, and of whom ſuch lands, tenements, or hereditaments, are holden, and by what rents or ſervices. And WE do hereby command you the ſaid commiſſioners, or any three or more of you as aforeſaid, that you do not omit, by reaſon of any liberty in our ſaid county of Dublin, but that you enter into it, and at a certain day and place, or days and places, which you ſhall for that purpoſe appoint, perſonally go to and enquire of all and ſingular the aforeſaid premiſſes. And you our ſaid commiſſioners, or any three or more of you as aforeſaid, are hereby required to return into our high court of Chancery in our ſaid kingdom of Ireland, the verdict or verdicts, or inquiſition or inquiſitions, which ſhall be found by the ſaid jury or juries, with all convenient ſpeed, and at fartheſt from the day of Eaſter in five weeks next coming, to be entered among our records of our ſaid court. IN WITNESS whereof WE have cauſed theſe our letters to be made patent. Witneſs our aforeſaid juſtices general and general governors of our ſaid kingdom of Ireland, at Dublin, the day of in the year of our reign.

Ex^l. Michael Nowlan, dep. clerk of the Crown and Hanaper.

Domville.

PRECEPT

PRECEPT to the ſheriff on the aforeſaid commiſſion in MORTMAIN.

WHEREAS there iſſued forth of his Majeſty's high court of Chancery in Ireland, and under the ſeal thereof, his Majeſty's commiſſion of enquiry, bearing date the day of inſtant, directed to his excellency John Ponſonby, eſq; ſpeaker of the Houſe of Commons, the right honourable Edward Willes, eſq; Chief Baron of his Majeſty's court of Exchequer, &c. [here name all the commiſſioners] authorizing them, or any three or more of them, whereof the ſaid Edward Willes or, &c. to be always one, to be commiſſioners in the county of Dublin, from time to time to enquire, find out, and fully inform themſelves, whether the provoſt, fellows, and ſcholars of the college of the holy and undivided Trinity of Queen Elizabeth, near Dublin, have at any time, and when, purchaſed or become ſeized of any lands, tenements, or hereditaments, within the county of Dublin, aforeſaid, contrary to the ſeveral ſtatutes in force in the ſaid kingdom of Ireland to prohibit alienations in mortmain, and of whom ſuch lands, tenements, or hereditaments, are holden, and by what rents or ſervices. WE therefore the ſaid Edward Willes, &c. [here inſert thoſe that ſign] do by virtue of the power and authority granted to us by the ſaid commiſſion, require and command you to impanel and return before us, or any three or more of us, whereof the ſaid Edward Willes or, &c. to be one, at in the county of Dublin aforeſaid, on the day of a jury of ſufficient, good, and lawful men of the county of Dublin aforeſaid, to enquire of and concerning the premiſſes, and to proceed on the execution of the ſaid commiſſion therein and thereby directed, wherein you are not to fail, and for your ſo doing this ſhall be your ſufficient warrant. Given under our hands and ſeals this day of 17

Edward Willes,
&c.

To the ſheriff of the
county of Dublin.

Sheriff's RETURN on the foregoing PRECEPT.

THE execution of this precept is in a panel hereunto annexed.
So anſwers

A. B. ſheriff.

INQUISITION on the aforeſaid commiſſion in MORTMAIN.

County of } AN inquiſition indented and taken at
to wit, } in the county of Dublin the day of
in the year of the reign of our ſovereign lord George the Second, &c. before the right honourable Edward Willes, eſq; chief Baron of his Majeſty's court of Exchequer in Ireland, &c. [here inſert the commiſſioners] by virtue of the annexed commiſſion of our ſaid lord the King, iſſued forth of the high court of Chancery of our ſaid lord the King, and under the ſeal of the ſaid court of Chancery, bearing date the day of in the ſaid year of the reign of our ſaid lord the King. James Donnellan, &c. [here inſert the jury] all in the ſaid county, gent. being duly impanelled and returned by force of the ſaid commiſſion, and ſworn upon the Holy Evangeliſts, to inquire, find out, and fully inform themſelves, whether the provoſt, fellows, and ſcholars of the holy and undivided Trinity of Queen Elizabeth, near Dublin, have at any time, and when purchaſed or become ſeized of any lands, tenements, or hereditaments within the ſaid county of Dublin, contrary to the ſeveral ſtatutes in force in the ſaid kingdom of Ireland, to prohibit alienations in mortmain, and of whom ſuch lands, tenements, or hereditaments are holden, and upon what rents or ſervices, upon their oaths ſay that the reverend Richard Baldwin, doctor in divinity, late provoſt of the ſaid college, died on or about the 30th day of September laſt paſt, and that before his death he duly made and publiſhed his laſt will and teſtament in writing, bearing date the 21ſt day of September aforeſaid, and that he thereby, among other lands, deviſed unto the provoſt, fellows, and ſcholars of the ſaid college and their ſucceſſors for ever, all his real eſtate in the county of Dublin aforeſaid; which ſaid will and teſtament are in the words and figures following, to wit, [here inſert the will] And the ſaid jurors upon their oaths ſay that the ſaid Richard Baldwin, was at the time of his death, and at the time of making and publiſhing his laſt will and teſtament, and for a conſiderable time before, ſeiſed in his demeſne as of fee ſimple of and in all that and thoſe the town and lands of containing by eſtimation acres, be the ſame more or leſs, lying and being in the barony of and county of Dublin aforeſaid, and that the ſaid lands were at the time of the death of the ſaid Richard Baldwin, and now are of the yearly value of £ beyond reprizals. And the ſaid jurors further upon their oaths ſay, that by indented deeds of leaſe and releaſe, bearing date reſpectively the and day of T. W. of &c. did for the conſiderations therein mentioned, grant, releaſe, and confirm unto the ſaid R. B. his

his heirs and aſſigns for ever, the town and lands of and all his the ſaid T. W's part of the town and lands of being acres profitable land plantation meaſure, ſubject to redemption on payment of the ſum of with intereſt as therein mentioned, on or before the day of next enſuing the date thereof. And the ſaid jurors on their oaths ſay, that Richard Robbins of the city of Dublin, gent. is heir at law to the ſaid Richard Baldwin; and that by indentures of leaſe and releaſe bearing date reſpectively the and days of, &c. the ſaid releaſe being made between the ſaid Richard Robbins, by the name of Richard Robbins of, &c. of the one part, and the provoſt, fellows, and ſcholars of the ſaid college of, &c. of the other part, the ſaid Richard Robbins did in conſideration of the ſum of to him in hand paid by the ſaid provoſt, &c. grant, bargain, ſell, releaſe, and confirm unto the ſaid provoſt, &c. their ſucceſſors and aſſigns for ever, amongſt ſeveral other lands, tenements, hereditaments, and premiſſes in ſeveral other counties in Ireland, all that and thoſe the aforeſaid towns and lands of and all ſuch right, title, claim, or demand whatſoever, whether in law or equity, which he could or might have, as heir at law or otherwiſe, to all or any the eſtate real, of which the ſaid Richard Baldwin was ſeized or poſſeſſed at the time of his death, except only the ſeveral lands, tenements, and hereditaments in the county of Dublin ſo deviſed to the ſaid Richard Robbins as aforeſaid, and that the provoſt, fellows, and ſcholars of the ſaid college, were at the time of the death of the ſaid Richard Baldwin and long before, and now are a body politick or corporate; and the ſaid jurors on their oaths further ſay, that the aforeſaid ſeveral lands, tenements, and hereditaments are, and at the time of the death of the ſaid Richard Baldwin, were held of his Majeſty in free and common ſoccage, ſubject to the ſeveral yearly rents thereout payable to his Majeſty herein after mentioned; to wit £ out of the ſaid lands of, &c. In teſtimony whereof the above named Edward Willes, &c. as alſo the jurors aforeſaid, have to this inquiſition affixed their hands and ſeals, the day, year, and place firſt above written.

James Donnellan, &c. Edward Willes, &c.

INFORMATION of INTRUSION on lands.

County of Roſcommon, } P. T. Attorney general of the ſaid lord the
to wit. } King, who for the ſaid lord the King in his behalf ſues, preſent here in court in his proper perſon the day of in this term, for the ſaid lord the King, gives the court here to underſtand, and be informed, that the ſeveral lands and tenements hereafter mentioned, to wit, Rairdighra, containing by eſtimation ſixty-four acres of land, and Ballyſunriffon, in Moyheeda, containing by eſtimation two hundred and forty-five acres of land, with all their rights, members, and appurtenances, all ſituate, lying, and being in the pariſh of Crowe, barony of Boyle, and county of Roſcommon aforeſaid, on the firſt day of April, in the ſecond year of the reign of the ſaid lord the King, and long before, and always after, were in the hands and poſſeſſion of the ſaid lord the King, and were, and of right ought to have been, and now are, and of right ought to be in the hands and poſſeſſion of our ſaid lord the King, as in right of his Crown, as by the records, rolls, and memorandums of this Exchequer fully appears. Notwithſtanding which, James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, not in the leaſt regarding the laws of the ſaid lord the King, but the diſinheriſon of the ſaid lord the King in the premiſſes contriving and fraudulently intending, with force and arms, and ſo forth, on the ſaid firſt day of April, in the ſecond year of the reign of our ſaid lord the King, and at divers other days and times, between the ſaid firſt day of April and the day of exhibiting this information, in and upon the poſſeſſion of the ſaid lord the King in the premiſſes entered, intruded, and made ingreſs; and the iſſues and profits thereout ariſing, to their own proper uſe, received and had, and as yet receive and have, and they their offences aforeſaid, from the aforeſaid firſt day of April, in the ſaid year, hitherto have continued and as yet continue, in contempt of the ſaid now lord the King, and againſt his laws. Wherefore the ſaid Attorney general for the ſaid lord the King, ſeeks advice of the court in the premiſſes, and that the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, and each and every of them, may come here to anſwer the ſaid lord the King of and in the premiſſes aforeſaid, and ſo forth.

* A PLEA

* A PLEA to the above information.

And the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, by John Thewles their attorney, proteſting that the aforeſaid information, and the matters therein contained and ſpecified, are not ſufficient in the law, to which they need, nor are they by the law of the land obliged to anſwer, for plea nevertheleſs ſay that they are in no ways guilty thereof; and of this they put themſelves on the country.

* This plea was an improper one, for the defendants ſhould have ſet forth their title, the King having been in poſſeſſion within twenty years before the information of intruſion, wherefore the Attorney general put in the following demurrer:

DEMURRER to the foregoing plea.

And the ſaid Philip Tiſdall, now Attorney general of our ſaid lord the King, who for the ſaid lord the King proſecutes, preſent here in court the ſame day in his proper perſon, by proteſtation not acknowledging any thing by the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, in the aforeſaid plea above pleaded to be true, for replication nevertheleſs the ſaid Attorney general for the ſaid lord the King ſaith, that the ſaid plea of the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, by them in manner and form above pleaded, is not ſufficient in the law to exonerate the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, of the intruſion, tranſgreſſion, and contempt aforeſaid, to which he for the ſaid lord the King need not, nor by law is obliged to anſwer; wherefore for the inſufficiency of the aforeſaid plea, and the matter therein contained, the ſaid Attorney of the ſaid lord the King, for the ſame lord the King ſeeks judgment, and that the ſaid James Mulvey, William Cary, Edward Conry, and Nicholas Cummins, may be convicted of the intruſion, tranſgreſſion, and contempt aforeſaid, in the premiſſes, and ſo forth.

The

The FORM of an INJUNCTION to the ſheriff to put the Farmers of the Crown in poſſeſſion on a judgment in intruſion.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of Roſcommon, greeting. WHEREAS all that the ſeveral lands and tenements hereafter mentioned, to wit containing by eſtimation acres of land, with their rights, members, and appurtenances, all ſituate, lying, and being in the pariſh of Barony of A. and county of Roſcommon aforeſaid, are now in our hands and poſſeſſion, and of right ought to be, as by many records, rolls, and memorandums of our Exchequer in Ireland more fully appears AND WHEREAS J. M. &c. having no regard to laws, but intending to diſinherit us in the premiſſes, with force and arms, and ſo forth, in and upon our poſſeſſion of the ſaid premiſſes and every parcel thereof have entered and intruded, in contempt of us, and againſt our laws, as by the joint conſideration of the Barons of our Exchequer lately given appears to us, WE command and firmly enjoin you that, immediately after the receipt of this our writ, you perſonally go to the ſaid lands of with the appurtenances, and the ſaid I. M. &c. and all other perſons occupying the ſaid premiſſes or any part thereof, in the name, right, procurement, title, or command of the ſaid I. M. &c. or either of them, and all things belonging to them or either of them whatſoever, from the poſſeſſion of the ſaid premiſſes and every parcel thereof, you amove or cauſe to be amoved, and that you put or cauſe to be put W. O. and C. B. our farmers of the ſaid premiſſes, or their aſſignee or aſſignees in this behalf, into the peaceable poſſeſſion thereof and of every part thereof; and this you are by no means to omit, under the penalty of £500 ſterling, which of your goods and chattels, lands and tenements, if you in any wiſe neglect this our command, WE will cauſe to be levied to our uſe. Moreover WE likewiſe command you that you attach the ſaid I. M. &c. by their bodies, wherefoever you ſhall find them in your bailiwick, and that you ſafely and ſecurely keep them, ſo that you have them before the ſaid Barons, at the King's courts, Dublin, in 3 weeks of the holy Trinity next coming, to ſuffer a fine to us for the ſame contempts, and further to abide in the premiſſes what our ſaid court ſhall then and there think fit to order; and that what you ſhall have done in the premiſſes you diſtinctly and openly make appear to our ſaid Barons at the day and place aforeſaid; and then have you there this writ. WITNESS Edward Willes, eſq; chief Baron of our ſaid Exchequer at the King's courts aforeſaid, the day of in the year of our reign.

Edward Willes. Clanbraſſill.

Another

Another Form.

THE Queen, &c. to the ſheriff, &c. greeting. WHEREAS one acre, &c. of right belong to us, as in right of our Crown of Ireland, as in many records, rolls, and memorandums of our Exchequer more fully appears of record, WE command you that immediately after the receipt of this our writ, you amove or cauſe to be amoved A. B. and E. S. and all things belonging to them, or either of them, whatſoever, from the poſſeſſion of all and ſingular the premiſſes, and that you put or cauſe to be put E. T. our farmer of the premiſſes, and his aſſigns, into the peaceable poſſeſſion thereof, and of every parcel thereof, and that you in our name give command unto the ſaid A. B. and E. S. and each of them, that neither they, nor any other perſon or perſons, in the name or by the procurement of them or either of them, do diſturb or moleſt the ſaid E. T. or his aſſigns, in the ſaid peaceable poſſeſſion of the premiſſes, under the penalty of £500, to be inflicted upon them neglecting or offending againſt this our command, which of the goods and chattels, lands and tenements, of ſuch offender WE ſhall cauſe to be levied for our uſe; and that what you ſhall have done in the premiſſes you ſhall diſtinctly and openly make appear to the Barons of our Exchequer at Weſtminſter, &c. and then have you there this writ.

Another Form.

THE Queen, &c. to the ſheriff of D. greeting, WHEREAS a certain water-mill with the appurtenances, ſituate, lying, and being in in our ſaid county of formerly belonging and appertaining to the late monaſtery of P. now in the occupation of G. P. and heretofore in the occupation of G. F. and formerly in the tenure or occupation of I. H. are now in our hands and poſſeſſion, and of right ought to be, as in right of our Crown of Ireland. AND WHEREAS the ſaid G. P. on the 20th day of July, in the fifth year of our reign, with force and arms and ſo forth, in and upon our poſſeſſion of the ſaid water-mill with the appurtenances, hath entered and intruded, and hath made entry, and the ſaid treſpaſs from the ſame 20th day of July, in the fifth year of our reign aforeſaid, until the 1ſt day of December in the 18th year of our reign, hath continued, in contempt of us, and againſt our laws, as by a certain verdict of the country, before our juſtices, at the aſſizes, in our ſaid county of D. lately held in the liberties of our Exchequer, and the judgment thereupon

upon given by our Barons, remaining in the ſaid Exchequer, and being of record in the cuſtody of our remembrancer there, among other things more fully appears, WE command you that you do not omit on account of any liberties in your bailiwick, as well within the liberties as without, but that you enter the ſame, and immediately after the receipt of this writ, that you go to the ſaid water-mill with the appurtenances, and him the ſaid G. P. and his aſſigns, and all other his things whatſoever, as alſo all other perſons by the title, name, command, or procurance of him the ſaid G. P. claiming the ſaid premiſſes or any parcel thereof, from the poſſeſſion thereof, and every parcel thereof that you amove, and cauſe to be amoved without delay, and that you put or cauſe to be put W. I. our farmer of the premiſſes, his aſſignee or aſſigns, in the quiet and peaceable poſſeſſion thereof, by the tenor of theſe preſents; and that what you ſhall have done in the premiſſes, you diſtinctly and openly make appear to the Barons of our Exchequer, at Weſtminſter, &c. and then have you there this writ. Witneſs, &c.

PLEA to the eſtreat of a recognizance forfeited.

AND now that is to ſay, on the 12th day of May, in the term of Eaſter, in the 28th year of the reign of our lord the King that now is, the ſaid Thomas Roche by Edmond Shanly his attorney, comes into court here and prays oyer of the ſaid eſtreat, and it is read to him in theſe words. An extract of fines, amerciaments, and recognizances forfeited, before our lord the King in this court of chief place in Ireland, in Hillary term in the 28th year of the reign of our lord George the Second, by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, and in the year of our lord 1755. Recognizances forfeited in ſaid term. Be it remembered, that on the 9th day of November 1754, Thomas Roche of the city of Dublin, eſq; came before the honourable Arthur Blenerhaſſet, eſq; one of the juſtices of his Majeſty's court of King's Bench in Ireland, and acknowledged himſelf indebted unto our ſaid lord the King in the ſum of £400 ſterling, to be levied, and ſo forth, conditioned that the ſaid Thomas Roche do appear and proſecute Peter Hamilton; upon which, and ſo forth; therefore, and ſo forth. St. George Caulfield, Michael Ward. Received 28th January, 1755, John Morriſon, ſummoniſter. Which being heard and underſtood, he the ſaid Thomas Roche doth complain that he is grievouſly diſtreſſed, vexed, and diſturbed in his lands and goods, by means of the ſaid eſtreat, and this not juſtly, becauſe, proteſting that the ſaid eſtreat,

eſtreat, and the matters therein contained, are not ſufficient in the law, to charge the ſaid Thomas Roche with the ſaid ſum or any part thereof, to which ſaid eſtreat or to the matters therein contained, he is not bound by the law of the land to anſwer, for plea nevertheleſs and for his diſcharge, the ſaid Thomas Roche ſays, he ought not to be charged with the ſaid ſum in the ſaid recognizance mentioned or any part thereof, and that the ſaid recognizance ought not to have been eſtreated into the court here, and that no proceſs ought to iſſue thereupon againſt him, becauſe he ſaith that the ſaid Thomas Roche on the 9th day of November laſt, came before the honourable Arthur Blenerhaſſet, eſq; one of the juſtices of his Majeſty's court of King's bench in Ireland, and acknowledged himſelf by the aforeſaid recognizance bound in £400 to proſecute the ſaid Peter Hamilton, the then Michaelmas term, that is to ſay, in the term of St. Michael laſt paſt, in the ſaid court of King's bench, as by the record of the ſaid recognizance remaining in the ſaid court of King's bench it doth appear, which ſaid recognizance ſo acknowledged by the ſaid Thomas Roche, and the ſaid recognizance mentioned and ſpecified in the ſaid eſtreat are one and the ſame and not different; and the ſaid Thomas Roche in fact ſaith, that the ſaid Thomas Roche did appear in the ſaid Michaelmas term laſt paſt, in the ſaid court of King's bench, as he was bound to do by the ſaid recognizance, and the condition thereof, and was then and there ready to proſecute the ſaid Peter Hamilton, as he was bound to do by the ſaid recognizance, and the condition thereof; all which the ſaid Thomas Roche is ready to verify, as the court ſhall direct; wherefore he prays judgment, and that he of the premiſſes may be exonerated and diſcharged and ſo forth.

John Fitzgibbon.

DEMURRER to the foregoing plea.

AND now at this day, that is to ſay, the day of in term, in the year of the reign of our lord the King that now is, comes here into court Warden Flood, eſq; Attorney general of our ſaid lord the now King, who for the ſame lord the now King in this behalf proſecutes, preſent here in court in his proper perſon, and the plea by the ſaid Thomas Roche above pleaded, in manner and form as is above pleaded, being ſeen by him the ſaid Warden Flood, he for the ſaid lord the King ſaith, that the ſaid plea for the ſaid Thomas Roche for his diſcharge, and the matter in the ſame contained, are not ſufficient in law to diſcharge him of the premiſſes, and that he the ſaid Attorney general, hath no neceſſity nor

is by the law of the land obliged to anſwer to that plea, in manner and form aforeſaid pleaded, and this the ſame Attorney general for the ſaid lord the King is ready to verify; wherefore for want of a ſufficient anſwer of him the ſaid Thomas Roche in this behalf, the ſame Attorney general prays judgment, and that the ſaid Thomas Roche and his lands and goods, may remain charged with the ſaid ſum of £400 ſterling, in the ſaid recognizance and eſtreat ſpecified, and that proceſs may iſſue for the ſame.

W. Flood.
Chriſtopher Robinſon.
Philip Tiſdall.
John Gore.

Part of a CASE laid before the Attorney general of England, and his opinion thereon.

THE King's council here are in ſome doubt whether theſe pleas ſhould be replied or demurred to. A draft of a replication is prepared, a copy of which is alſo ſent you.

Your opinion therefore is deſired, whether as this caſe is circumſtanced, the Crown can ſupport this eſtreat; and if ſo, whether it will be moſt adviſable to reply or demur; and if you are of opinion that the Attorney general ſhould reply, pleaſe to conſider if the draft of the replication herewith ſent you be a proper one; if you ſhall be of opinion that it is not, be pleaſed to alter or direct in what way you are of opinion it ought to be.

OPINION.

The queſtion propoſed as to the forfeiture of this recognizance, can be beſt anſwered in Ireland, by perſons converſant with the uſage of the court there; the uſage of every court being the law of the court; were it a cauſe depending in England, I ſhould conceive little difficulty in it, and that the plea is bad and ſhould be demurred to; it is a plea that tends to falſify the record, or which is more abſurd, to join iſſue upon a matter in law, to be tried by the country; for it ſeems to be intended to try the effect of the recognizance by a jury; if the eſtreat were irregular it ſhould have been ſet right by application to the court; but it ſeems to me to be regular, that is, that on the whole of the caſe the recognizance was forfeited.

9th May 1757. R. Henley.

After

After the foregoing plea and demurrers were filed, the defendant moved for liberty to file the following

Amended PLEA.

AND now, that is to ſay, on the 12th day of May, in the term of Eaſter, in the twenty-eighth year of the reign of our lord the King that now is, the ſaid Thomas Roche, by Edmond Shanly his attorney, comes into court here and prays oyer of the ſaid eſtreat, and it is read to him in theſe words, AN EXTRACT of fines, amerciaments, and recognizances, forfeited before our lord the King, in his court of chief place, in Hilary term, in the twenty-eighth year of the reign of our lord GEORGE the ſecond, by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, and in the year of our Lord one thouſand ſeven hundred and fifty-five. Recognizances forfeited in ſaid term. Be it remembered, that on the 9th day of November, 1754, Thomas Roche, of the city of Dublin, eſq; came before the honourable Arthur Blenerhaſſet, eſq; one of the juſtices of his Majeſty's court of King's bench in Ireland, and acknowledged himſelf indebted unto our ſaid lord the King in the ſum of £400 ſterling, to be levied, and ſo forth. Conditioned that the ſaid Thomas Roche do appear and proſecute Peter Hamilton. Upon which, and ſo forth. Therefore, and ſo forth. St. George Caulfield, Michael Ward. Examined by Tiſdall. Received 28th January, 1755, John Morriſon, ſummoniſter. Which being heard and underſtood, he the ſaid Thomas Roche doth complain that he is grievouſly diſtreſſed, vexed, and diſturbed in his lands and goods by means of the ſaid eſtreat, and this not juſtly; becauſe proteſting that the ſaid eſtreat, and the matters therein contained, are not ſufficient in the law to charge the ſaid Thomas Roche with the ſaid ſum or any part thereof; to which ſaid eſtreat, or the matters therein contained, he is not bound by the law of the land to anſwer; for plea nevertheleſs, and for his diſcharge, the ſaid Thomas Roche ſays, that he ought not to be charged with the ſaid ſum in the ſaid recognizance mentioned, or any part thereof, and that the ſaid recognizance ought not to have been eſtreated into the court here, and that no proceſs ought to iſſue thereupon againſt him, becauſe he ſaith that he the ſaid Thomas Roche, on the 9th day of November, in the twenty-eighth year of the reign of the lord the King that now is, came before the honourable Arthur Blenerhaſſet, one of the juſtices of his Majeſty's court of King's bench in Ireland, and was ſworn and examined before the ſaid Arthur Blenerhaſſet, againſt Peter Hamilton, of the city of Dublin, eſq; in the following words,

that is to ſay, County of the city of Dublin, to wit, the information of Thomas Roche, of the city of Dublin, eſq; taken and ſworn before the honourable Arthur Blenerhaſſet, one of the juſtices of his Majeſty's court of King's bench in Ireland, who being duly ſworn on the holy Evangeliſts, and examined, ſaith that on or about the 14th day of July laſt, this informant, at the requeſt of Peter Hamilton, of the ſaid city of Dublin, eſq; played at cards with the ſaid Hamilton, at an houſe in Caſtle ſtreet, in the ſaid city of Dublin, called the plume of feathers tavern; and ſaith that the ſaid Peter Hamilton then and there won from this informant, at cards, the ſum of £70, and upwards, at one ſitting; and ſaith that on the ſame day and place, the ſaid Peter Hamilton, in this informant's preſence, put down money and bank bills, and held a bank at Pharaoh, a game played with cards, and ſaith that ſeveral perſons then preſent punted and ſet their money at the ſaid unlawful game called Pharaoh, ſo held and played by the ſaid Peter Hamilton. And this informant further ſaith that the ſaid Peter Hamilton, in the months of June and July laſt, won from this informant at cards, at other places, ſeveral ſums of money, including the aforeſaid ſum, amounting in the whole to the ſum of nineteen hundred guineas and upwards, or thereabouts, all which ſaid ſeveral ſums of money the ſaid Peter Hamilton conſtantly, from time to time, received from this informant, as he this informant loſt the ſame; and this informant further ſaith, that on or about the 29th day of July aforeſaid, this informant ſaw the ſaid Peter Hamilton armed with a ſword, in the ſaid city of Dublin, and which the ſaid Peter Hamilton then and there wore and carried, in order to quarrel with this informant, as this informant is well aſſured and believes. And this informant further ſaith, that the ſaid Peter Hamilton, at the time he was ſo armed with the ſaid ſword, was, and is now a papiſt, or perſon profeſſing the popiſh religion, and born of popiſh parents. Thomas Roche. Taken and ſworn before me the 9th day of Nov. 1754; Arthur Blenerhaſſet. Bound in £400 to proſecute this preſent term; Thomas Roche. And the ſaid Thomas Roche ſaith that he was then bound before the ſaid Arthur Blenerhaſſet in the ſum of £400 to proſecute the ſaid Peter Hamilton in the then term of St. Michael, in the twenty-eighth year of the reign of our lord the King that now is, for the charges and offences mentioned and ſpecified in the ſaid information, as by the ſaid information, and the records of the ſaid recognizance remaining in the ſaid court of King's bench it doth appear, which ſaid recognizance ſo acknowledged before the ſaid Arthur Blenerhaſſet by the ſaid Thomas Roche, and the ſaid recognizance mentioned and ſpecified in the ſaid eſtreat, are

are one and the ſame, and not different. And the ſaid Thomas Roche ſaith in fact, that he the ſaid Thomas Roche, from the acknowledging of the ſaid recognizance, did perſonally appear and attend in the ſaid court of King's bench, and was ready to proſecute the ſaid Peter Hamilton for the ſeveral charges and offences ſpecified in the ſaid information, day after day, during the whole time of the ſitting of the court of King's bench till the riſing of the court of King's bench on the laſt day of the ſaid term of St. Michael, in the twenty-eighth year of the reign of our lord the King that now is, to wit, at the city of Dublin, in the pariſh and ward of St. Michael, in the county of the ſaid city, where the ſaid court of King's bench ſat during the whole time aforeſaid. And the ſaid Thomas Roche further ſaith, that he the ſaid Thomas Roche was not called upon or required by the ſaid court, or by the King's attorney or coroner, or by any perſon whatſoever, at any time after the acknowledging of the ſaid recognizance, during the ſaid term of St. Michael, in the twenty-eighth year of the reign of our lord the King that now is, to proſecute the ſaid Peter Hamilton for the charges or offences, or for any of the charges or offences, ſpecified in the ſaid examination; all which the ſaid Thomas Roche is ready to verify, as the court here ſhall direct; wherefore he prays judgment, and that he of the premiſſes may be exonerated and diſcharged, and ſo forth.

INFORMATION in the nature of an Engliſh Bill for an arrear of Crown rent.

To the right honourable the Treaſurer, &c.

Philip Tiſdall, eſq; his Majeſty's Attorney general, for and on behalf of his Majeſty, cometh and informeth your honours, that his late Majeſty King Charles the ſecond, by letters patent dated at Dublin, on or about the 18th day of February, in the thirty-ſecond year of his reign, granted unto the moſt reverend father in God, Thomas then lord archbiſhop of Caſhel, and his ſucceſſors, archbiſhops of Caſhel, the tithes of the rectory of Clonbolge, otherwiſe Clonbologe, and Templemeire, otherwiſe Templemoire, ſituate in the county of Tipperary, reſerving thereout the yearly Crown rent of 10*l.* 0*s.* 9½*d.* alſo the tithes of the rectory of Kilfeacle, otherwiſe Kilkill, in the ſaid county, reſerving thereout the yearly Crown rent of 10*l.* 16*s.* alſo the tithes of the rectory of Tipperary, in the ſaid county, reſerving thereout the yearly Crown rent of 4*l.* 17*s.* 4*d.* All which ſaid ſeveral tithes and rectories were parcels of the poſſeſſion of the monaſtery of Athaſſell,

Athaſſell, and which ſaid ſeveral yearly rents, by the ſaid letters patent, were reſerved to his ſaid Majeſty, and his ſucceſſors, payable half yearly. And the ſaid Attorney general informeth your honours, that the ſaid grant was ſo made to the ſaid archbiſhop, and his ſucceſſors, in truſt for the miniſters and incumbents of the pariſhes in which the ſaid ſeveral tithes and rectories lie, and their ſucceſſors, as by the ſaid letters patent, or an enrolment thereof, may more at large appear. The ſaid Attorney general further informeth your honours, that the ſaid Thomas lord archbiſhop of Caſhel, and his ſucceſſors, archbiſhops of Caſhel, or the miniſters and incumbents of the pariſhes in which the ſaid rectories and tithes lie, and their ſucceſſors, became and continued ſeiſed and poſſeſſed of the ſaid rectories and tithes, and paid the ſaid ſeveral yearly rents ſo reſerved as aforeſaid, until the time herein after mentioned. The ſaid Attorney general further informeth your honours, that in or about the year 1740, R. G. clerk, was duly preſented or collated, inſtituted and inducted to the pariſh or pariſhes in which the ſaid ſeveral tithes and rectories lie, and was thereby miniſter and incumbent of the ſaid pariſh or pariſhes, and continued in the enjoyment thereof, and in the receipt of the iſſues and profits of the ſaid tithes and rectories, under and by virtue of the ſaid letters patent, until the time of his death, which happened ſometime in or about the year 1757. The ſaid Attorney general further informeth your honours, that the then archbiſhop of Caſhel and the ſaid R. G. neglected to pay his Majeſty the ſaid ſeveral yearly rents of the ſaid ſeveral tithes and rectories, and every of them, for ſeveral years during the time the ſaid R. G. was incumbent and miniſter of the ſaid pariſh or pariſhes, and received the profits of the ſaid tithes and rectories; and that on the 25th day of March, 1757, at which time the ſaid R. G. was miniſter and incumbent of the ſaid pariſh or pariſhes, there was due and in arrear to his late Majeſty, for the yearly rent of the ſaid tithes and rectory of Clonbolge, otherwiſe Clonbologe, and Templemeire, otherwiſe Templemoire, the ſum of 5*l.* 2*s.* 8½*d.* for the yearly rent of the ſaid tithes and rectory of Kilfeacle, otherwiſe Kilkill, the ſum of 145*l.* 16*s.* and for the yearly rent of the ſaid tithes and rectory of Tipperary the ſum of 21*l.* 18*s.* 1½*d.* as by conſtats thereof, certified by his Majeſty's Auditor general, may more at large appear. Which ſaid ſeveral ſums became due and payable to his Majeſty during the time the ſaid R. G. was miniſter and incumbent of the ſaid ſeveral pariſhes, and in the enjoyment and receipt of the ſaid ſeveral tithes and rectories, under and by virtue of ſaid letters patent. The ſaid Attorney general further informeth your honours, that the ſaid R. G. died

died as aforeſaid, leaving S. G. his widow, and one ſon, R. G. his heir at law, and before his death duly made and publiſhed his laſt will and teſtament in writing, bearing date on or about the 15th day of February, 1749, and thereby charged all his real and perſonal eſtate with the payment of his debts, and appointed his ſaid wife, S. G. executrix, during her viduity, and no longer; and the ſaid S. G. proved the ſame in the prerogative court of this kingdom, and hath taken on her the burthen and execution thereof, and is ſtill a widow and unmarried. And the ſaid R. G. died ſeiſed and poſſeſſed of a very conſiderable real eſtate, and on his death the ſaid R. G. became ſeiſed thereof, as his heir at law or otherwiſe. The ſaid Attorney general further informeth your honours, that application was made by the proper officer to the ſaid R. G. in his life-time, and to his ſaid executrix ſince his deceaſe, and to the ſeveral perſons herein after mentioned, who were archbiſhops of Caſhel during the incumbency of the ſaid R. G. the elder, as aforeſaid, in their life-times, and to their reſpective executors ſince their deceaſe, and alſo to the moſt reverend father in God, Michael the preſent lord archbiſhop of Caſhel, for the payment of the ſaid ſeveral yearly Crown rents. But now ſo it is, may it pleaſe your lordſhips, that the ſaid S. G. and M. lord archbiſhop of Caſhel, combining and confederating together, and to and with the ſaid R. G. and to and with A. B. widow and executrix of T. B. formerly lord archbiſhop of Caſhel, and to and with M. D. widow, and B. V. executors of A. P. alſo formerly lord archbiſhop of Caſhel, and to and with J. D. and J. C. executors of E. W. who was ſole executrix of J. W. late lord archbiſhop of Caſhel, which ſaid T. B. A. P. and J. W. were ſucceſſively archbiſhops of Caſhel during the time the ſaid R. G. was incumbent of the ſaid rectories, abſolutely refuſe to pay the ſaid ſeveral arrears, or any of them, to his Majeſty; the ſaid archbiſhop of Caſhel alledging, that he is only truſtee for the ſaid incumbents, and is not obliged to pay the ſame; and the ſaid S. G. inſiſts that his Majeſty cannot proceed at law againſt her for the recovery of the ſaid arrears, as the legal eſtate of the ſaid tithes and rectories was, by the ſaid letters patent, veſted in the ſaid archbiſhop of Caſhel, and his ſucceſſors. All which actings and doings are contrary to equity and good conſcience, and tend to the prejudice and diminution of his Majeſty's revenue. To the end therefore, that an account may be taken of what was due to his late Majeſty, for and on account of the ſaid Crown rents, at the death of the ſaid R. G. which became due and payable during his incumbency, and that the ſaid S. G. may be obliged forthwith to pay to the proper officer of the Crown, the ſaid ſeveral arrears of Crown rent, due on the ſaid ſeveral tithes

tithes and rectories, at the time of the death of the ſaid R. G. out of the perſonal fortune and effects of the ſaid R. G. the elder; and that if the ſaid perſonal fortune and effects of R. G. the elder ſhould not be ſufficient to pay the ſaid ſeveral arrears of Crown rent, then that the ſame may be paid out of the real eſtate of which he died ſeiſed in fee ſimple. And that the ſaid Michael, lord archbiſhop of Caſhel, and the ſaid other conſederates, may true, full, and perfect anſwers make, according to their reſpective knowledge, hearſay, and belief, to all and ſingular the matters and charges aforeſaid, as fully and particularly as if the ſame were herein again repeated and interrogated; and particularly whether the ſaid R. G. the elder was at any and what time, and how long, miniſter or incumbent of the pariſh or pariſhes in which the ſaid tithes and rectories lie, or any and which of them; in what pariſh or pariſhes the ſaid tithes and rectories lie; and whether the ſaid R. G. the elder was at any and what time preſented, inſtituted, and inducted, or collated to the ſame or any and which of them, and by whom; and whether the ſaid R. G. the elder continued miniſter or incumbent of the ſaid pariſh or pariſhes, or any and which of them, until the time of his death, or how long and for what time particularly he was ſo miniſter or incumbent thereof, and when the ſaid R. G. died; and whether he made ſuch will, and of ſuch date as herein before ſet forth, or any other and what will; and whom he appointed executor or executors thereof, and who proved the ſaid will, and in what eccleſiaſtical or ſpiritual court; whether he did not die ſeiſed and poſſeſſed of a very conſiderable real and perſonal eſtate, and of what the ſame conſiſted, and of what value particularly, and to what amount in the whole; and whether the ſaid S. G. or any other and what perſon or perſons, and who by name, by virtue of the ſaid will, or how otherwiſe, become ſeiſed and poſſeſſed thereof; and that the ſaid S. G. may ſet forth in her anſwer to this information, or in a ſchedule thereto, a true and exact account of all the real and perſonal eſtate of the ſaid R. G. which came to her hands, poſſeſſion, power, or cuſtody, or to the hands, power, or cuſtody of any other perſon or perſons in truſt for or for her uſe, together with the quantity, number, real value, and particular kind or kinds thereof, and how, and by whom, and for what uſes or purpoſes, the ſame and every part thereof have been applied or diſpoſed, and at what time or times; and how all and every the debts which were due and owing to the ſaid R. G. at the time of his death, are ſeverally ſecured, and how much is really due on each ſecurity; and that your orator on behalf of his Majeſty may have ſuch further and other relief in the premiſſes

as

as the nature and merits of this caſe requires. May it therefore pleaſe your lordſhips to grant unto your orator your lordſhips letter miſſive, as alſo his Majeſty's writ or writs of ſubpœna, to be directed to the ſaid Michael lord archbiſhop of Caſhel, and his Majeſty's writ of ſubpœna, to be directed to the ſaid S. G. R. G. A. B. M. D. B. V. J. D. and J. C. requiring and commanding them, and every of them, at a certain day, and under a certain pain therein to be limited, perſonally to be and appear before your lordſhips in this honourable court, and, then and there, true, full, perfect, and diſtinct anſwers make to all and ſingular the premiſſes; and that the ſaid confederates may ſtand to and abide ſuch further order and decree as your lordſhips ſhall make for your orator's relief in the premiſſes.

And your orator will pray, &c.

Philip Tiſdall.

SCIRE FACIAS againſt the ſureties of a ſheriff, who died without paying his totts, on his recognizance to account.

GEORGE the Third, &c. to the ſheriff of the King's county, greeting. Whereas Arthur Judge, eſq; appointed high ſheriff of the county of Weſtmeath, and Arthur Judge of Rahen, eſq; on the 6th day of February in the year of our lord 1749, before Alexander Wood, gent. a commiſſioner for that purpoſe nominated and appointed, by a commiſſion under the great ſeal of Ireland, bearing date the 2d day of February, in the 22d year of the reign of his late Majeſty King George the Second, in their proper perſons, came and acknowledged themſelves to be jointly and ſeverally bound unto his ſaid late Majeſty King George the Second, in the ſum of £500 good and lawful money of Great-Britain, to be levied of their goods and chattels, under the following condition, that is to ſay, if the ſaid Arthur Judge, then appointed high ſheriff of the ſaid county of Weſtmeath, ſhould by himſelf in his proper perſon, or by his attorney ſufficiently authorized in that behalf, appear and make his proffers at his Majeſty's court of Exchequer, on the morrow of the cloſe of Eaſter and St. Michael the Archangel, next and immediately enſuing the date of the ſaid recognizance, of the iſſues and profits of his bailiwick, to as great value or better than any of his predeceſſors ſheriffs of that bailiwick, and ſatisfy at the Exchequer to his Majeſty's uſe all ſuch ſums of money as ſhould grow due to his Highneſs, upon the ſaid views, before the end of the ſaid term, or otherwiſe ſufficiently diſcharge himſelf thereof; and alſo if the ſaid ſheriff ſhould appear as aforeſaid, before the ſaid Barons of the Exchequer, on the morrow of All Souls then next

enſuing, to make a true and faithful account of the iſſues and profits of his ſaid bailiwick, and ſatisfy and pay all ſuch ſum and ſums of money, goods, and other caſualties and things as he ſhould receive, levy, and collect, in reſpect of his Majeſty's revenue or caſualties whatſoever, as ſhould or might grow due to his Majeſty, his heirs and ſucceſſors, before the end of the ſaid Michaelmas term, or otherwiſe ſufficiently diſcharge himſelf thereof, if he be then removed from the exerciſe or execution of the ſaid office, if not, then before the end of the next term after ſuch his removing or diſplacing, and likewiſe of all ſuch iſſues, fines, and amerciaments, extents of lands and tenements, ſeized by him or come to his hands or bailiffs errant hands, or to any his officers or miniſters hands whatſoever, due to his Majeſty by reaſon or means of his prerogative royal, during his ſheriffalty or continuance in the ſaid office, without concealment; or otherwiſe ſufficiently diſcharge himſelf thereof; and alſo if the ſaid ſheriff ſhould make and have an attorney upon record in court, to attend upon the court, to receive all proceſſes, writs and commandments of the ſaid court, that then the ſaid recognizance to be void and of none effect, or elſe to remain and abide in full force, ſtrength and virtue in law, as by the record thereof, in the chief remembrancer's office of our ſaid court of Exchequer, now remaining of record manifeſtly appears. And whereas the ſaid Arthur Judge ſo appointed ſheriff, did appear before the ſaid Barons of our Exchequer, and make an account of the iſſues and profits of his ſaid bailiwick, but did not ſatisfy and pay at the receipt of our ſaid Exchequer, ſuch ſum and ſums of money, goods and other caſualties and things or any of them, as he had received, levied and collected in reſpect of his Majeſty's revenue or caſualties, as did grow due to his Majeſty purſuant to the condition of the ſaid recognizance. And whereas the ſaid Arthur Judge, high ſheriff of the ſaid county is dead; and whereas the ſaid laſt mentioned Arthur Judge, and Arthur Judge of Rahin, or either of them, the ſaid ſum of £500 or any part thereof, in the life time of the ſaid Arthur Judge ſheriff of the ſaid county, did not pay, and the ſaid Arthur Judge of Rahin, ſince the deceaſe of the ſaid Arthur Judge ſheriff of the ſaid county, the ſaid ſum of £500 or any part thereof hath not yet paid, or cauſed to be paid to us; and we willing that the ſaid ſum of £500 ſterling ſhould be ſatisfied to us, with all ſpeed as is juſt, do therefore now command you that you omit not by reaſon of any liberty in your bailiwick, but do enter the ſame, and by honeſt and lawful men of your ſaid bailiwick do make known to the ſaid Arthur Judge of Rahin, that he be before the Barons of our ſaid Exchequer, at the King's courts, Dublin, in fifteen days of St. Hillary next

next coming, to ſhow and propound cauſe if any he has or knows, wherefore we ought not to have execution againſt him, for the ſaid ſum of £500 ſterling; and you are then to have there the names of thoſe by whom you ſhall make it known to him, and this writ. Witneſs Edward Willes, eſq; chief Baron of our ſaid Exchequer at the King's courts aforeſaid, the 12th day of December in the fourth year of our reign.

A FORM of an ESTREAT from the court of King's bench into the Exchequer of the goods of an outlawed perſon.

County of the city of } THE ſheriffs were commanded not to omit
Dublin, to wit, } by reaſon of any liberty in their bailiwick, diligently enquiring by the oaths of honeſt and lawful men of their ſaid county of the city, what goods and chattels, lands and tenements, John Connor otherwiſe called Jack the batchelor, late of Ruſh in the county of Dublin, mariner, had in their county of the city, on Wedneſday next after three weeks from the holy Trinity, in the tenth year of the reign of his preſent Majeſty King George the Third, or at any time afterwards, on which day he was outlawed, in the county of Down, for a certain treaſon and murder whereof he ſtood indicted, as the ſheriff of the lord the King of the county of Down at a certain day now paſſed hath returned to the ſaid lord the King; and that they ſhould cauſe thoſe things by their oaths to be extended and appraiſed according to the true value thereof; and the ſame being ſo extended and appraiſed, what they ſhould do therewith they ſhould make known to the ſaid lord the King, on Monday next after the morrow of the aſcenſion of our lord, whereſoever the ſaid lord the King ſhould then be in Ireland, diſtinctly and plainly under their ſeals, and the ſeals of thoſe by whoſe oaths they ſhould make ſuch extent and appraiſement. And now here at this day to wit, on Monday next after the morrow of the aſcenſion of our lord, came Philip Tiſdall his Majeſty's Attorney general, who for his ſaid Majeſty deſired a return of his ſaid writ, and the ſheriff's to wit, Blennerhaſſet Grove and Anthony Perrier, eſqrs. now delivered a certain inquiſition, taken before them at the Tholſel of the city of Dublin the 20th day of April, in the eleventh year of the reign of his preſent Majeſty King George the Third, by which it is found that the aforeſaid John Connor otherwiſe called Jack the batchelor, was on the 2d day of April in the ſeventh year of his ſaid Majeſty's reign, ſeized and poſſeſſed of a cutter lying at ſir John Rogerſon's quay, in the county of the city of Dublin aforeſaid, of

the value of ninety pounds ſterling, which ſaid cutter with the appurtenances into his ſaid Majeſty's hands the ſaid ſheriffs have taken and ſeized.

A WRIT of VENDITRONI EXPONAS from the Exchequer, purſuant to an order on the above eſtreat.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriffs of the county of the city of Dublin, greeting. WE command you that you expoſe to ſale a cutter lying at ſir John Rogerſon's quay, in the county of the city of Dublin, of the value of ninety pounds ſterling, with the appurtenances, which John Connor otherwiſe called Jack the batchelor, late of Ruſh in the county of Dublin, who was outlawed for treaſon and murder, was poſſeſſed of, and which you as ſheriffs of the county of ſaid city took and ſeized in your hands, by virtue of a ſpecial writ of outlawry to you directed, and in your cuſtody now remaining, as by return of the ſaid writ of outlawry, and inquiſition thereupon held, by the oaths of honeſt and lawful men of your bailiwick taken before you at the Tholſel of the ſaid city, the 20th of April in the eleventh year of our reign, and tranſmitted from our court of chief place into our court of Exchequer, remains of record; and the money from thence ariſing you are to have before the Barons of our Exchequer, at the King's courts Dublin, eight days before the holy Trinity next coming, then and there to be paid to our uſe; and have you then there this writ. Witneſs Anthony Foſter, eſq; chief Baron of our Exchequer aforeſaid, at the King's court aforeſaid, the 14th day of May in the eleventh year of our reign.

SCIRE FACIAS to ſhew cauſe why a Crown rent which was reſerved on a grant, but had been neglected to be put in charge in the auditor's office, ſhould not be charged in the rent rolls there and the rent and arrears levied.

GEORGE the Third, &c. to the ſheriff of the county of Roſcommon greeting. Whereas it is found in the office of our Auditor general amongſt the records there, that the rectories of Drum Commagh, &c. ſituate, lying, and being in the ſaid county of Roſcommon, are chargeable with the yearly Crown rent of £76 16, which hath been omitted to be put in charge in our rent rolls, as by the records and other memorandums of our court of Exchequer appears of record, which yearly Crown rent hath not been collected or received, but ſtill remains

remains due and unſatisfied, to the grievous damage of our royal prerogative, WE therefore command you that you do not omit by reaſon of any liberty in your ſaid bailiwick, but that you enter the ſame, and by good and lawful men of your ſaid bailiwick, give notice to the ſeveral and reſpective terre-tenants of the ſaid rectories and tythes, that they be before the Barons of our Exchequer at the King's courts Dublin, on the morrow of the holy Trinity next coming, to ſhew cauſe (if any they can) wherefore the ſaid yearly rents ſhould not be charged in our rent rolls on the ſaid rectories and tythes, and wherefore the ſame and all the arrears thereof ſhould not be levied out of the ſaid rectories and tithes, and why the ſaid rectories and tithes in default of payment thereof ſhould not be ſeized into our hands, and further to do and receive whatſoever our ſaid court ſhall then and there conſider concerning the premiſſes in this behalf; and have you then there the names of thoſe by whom you ſhall give them notice, and this writ. Witneſs Anthony Foſter, &c.

An INFORMATION in the Exchequer, on the ſtat. 5 Geo. I. c. 11. England, for importing goods into this Kingdom, which were not laden and ſhipped in Great-Britain.

County of Londonderry } Of Trinity term, in the 33d and 34th year
to wit. } of the reign of George the Second, King
of Great-Britain and ſo forth.

BE IT REMEMBERED, that Thomas Foorder, who as well on behalf of our ſovereign lord the King as of himſelf proſecutes in this behalf, came before the Barons of his Majeſty's court of Exchequer, on the 2d day of June in this term, in his proper perſon, and as well on behalf of our ſovereign lord the King as himſelf, gave the ſaid court to underſtand and be informed, that on the 2d day of July, in the year of our lord one thouſand ſeven hundred and fifty nine, at Shiphaven in the county of Londonderry, he did ſeize and arreſt, to the uſe of our ſaid lord the King and himſelf the ſaid Thomas Foorder, a certain ſhip or veſſel called the Swift Sloop, with all her guns, tackle, furniture, ammunition and apparel, and the following goods and commodities then and there on board the ſaid ſhip, that is to ſay, 21 caſks of green tea, 102 caſks of bohea tea, and one caſk of rhubarb; for that the ſaid goods and commodities, being of the growth, product, and manufacture of the Eaſt Indies, were on the 2d day of July aforeſaid, imported and brought in the ſaid ſhip, ſloop, or veſſel into this

this kingdom, that is to ſay, into the port, harbour, and bay of Shiphaven in the county of Londonderry aforeſaid, and were not laden and ſhipped in Great-Britain, according to the form of the ſtatute in that caſe made and provided, by reaſon whereof the ſaid goods and commodities, together with the ſaid ſhip, ſloop, or veſſel, and all her guns, tackle, furniture, ammunition and apparel, are become forfeited; wherefore the ſaid Thomas Foorder as well on behalf of his ſaid Majeſty as himſelf, prays the advice of the ſaid court in the premiſſes, and that the ſaid goods and commodities, and alſo the ſaid ſhip or veſſel, with all her guns, ammunition, tackle, furniture, and apparel, may be adjudged forfeited, one moiety thereof to the uſe of our ſaid lord the King, and the other to him the ſaid Thomas Foorder, according to the form of the ſtatute in that caſe made and provided. Philip Tiſdall.

PLEA to the aforegong information.

Thomas Foorder informer, againſt the ſhip or veſſel called the Swift Sloop, and ſo forth. } AND William Boyd maſter of the ſhip or veſſel called the Swift Sloop aforeſaid, on behalf of J. B. and D. B. and company merchants, and alſo on behalf of himſelf the ſaid William Boyd, by A. M. his attorney, comes and claims the property of the aforeſaid 21 caſks of green tea, 102 caſks of bohea tea, and one caſk of rhubarb in the information aforeſaid mentioned, and the ſaid W. B. alſo maſter and commander of the ſaid Swift Sloop, by his ſaid attorney claims the property of the ſaid ſhip or veſſel called the Swift Sloop, with all her guns, tackle, furniture, ammunition and apparel; and the ſaid W. B. by his ſaid attorney prays oyer of the information aforeſaid, and it is read to him. Which being read, heard, and underſtood by him, he complains, that he by colour of the ſaid premiſſes is injured and vexed, and this unjuſtly; becauſe, proteſting that the information aforeſaid and the matter therein contained, are not at all ſufficient in the law, to which he is under no neceſſity of anſwering, nor is he obliged by the law of the land thereto; for plea notwithſtanding, the ſaid W. B. ſaith, that the goods aforeſaid, in the information aforeſaid mentioned, or any part thereof, were not nor was imported in the ſaid ſhip or veſſel called the Swift Sloop, into this kingdom of Ireland, on the 2d day of July 1759 in the ſaid information mentioned, or at any other time, in manner and form as by the information aforeſaid is above ſuppoſed; and of this he puts himſelf on the country.

Alexander Carleton.

WRIT

WRIT of Aſſiſtance granted to the late ſheriff having accounted.

GEORGE the Third by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to the ſheriff of the county of greeting. WE command you that you do not omit, by reaſon of any liberty in your bailiwick, but that you enter therein, and aſſiſt and cauſe all your bailiffs and officers to be aſſiſting in aid of late ſheriff of the ſaid county, for one whole year ending at the feaſt of ſaint Michael the Archangel, in the year of our reign, to levy for him all thoſe debts and ſums of money in the ſchedule to this writ annexed ſpecified, which are due to him by reaſon of his office, for the time he was ſheriff of the county aforeſaid, and for which the ſaid late ſheriff hath accounted to us in our Exchequer; and if it ſhall happen that the ſaid debts cannot be levied of the goods and chattels, lands and tenements, of the ſeveral perſons in the ſaid ſchedule ſpecified, then WE command you that you take the ſeveral perſons in the ſaid ſchedule mentioned, and them ſafely keep until the ſaid debts and ſums of money be ſatisfied to the ſaid late ſheriff; and this in no wiſe omit, on pain of one hundred pounds, which we will cauſe to be levied to our uſe of your goods and chattels, lands and tenements, if you ſhall neglect or be remiſs in the premiſſes; and what you ſhall do or cauſe to be done in the premiſſes you ſhall diſtinctly and plainly make manifeſt to the Barons of the Exchequer at the King's courts Dublin next. Witneſs Anthony Foſter, eſq; chief Baron of our Exchequer aforeſaid, at the King's courts aforeſaid the day of in the fourteenth year of our reign.

Morgan; T. R.

A WRIT of ASSISTANCE for the officers of the cuſtoms, from Brown's Brevia Scaccarii.

GEORGE &c. to all and ſingular the officers and miniſters, who now have or ſhall hereafter have any office, power, or authority from or under the juriſdiction of the lord high admiral or admiralty of our kingdom of &c. to all and ſingular our vice admirals, juſtices of the peace, mayors, ſheriffs, conſtables, bailiffs, headboroughs, and all other our officers, miniſters, and ſubjects of and within any city, borough,

borough, town, and place of this kingdom, and to every of you, greeting. Whereas we by our letters patents under our great ſeal of &c. bearing date &c. appointed our beloved T. V. and R. B. &c. collectors of our cuſtoms within the port of &c. and in all places and creeks to the ſaid port, &c. as by the ſaid letters patents amongſt other things more fully appears; we therefore firmly enjoin and command you that, all excuſe ceaſing, you permit and every of you permit the aforeſaid T. V. and B. R. and either of them, their deputies and ſervants and each of them, from time to time, at their and each of their will and pleaſure, as well by night as by day, to enter and go on board any ſhip, boat, or other veſſel, riding or being within, or coming to the port aforeſaid, or into any ports, places, or creeks adjacent to the ſaid port; and ſuch ſhip, boat, or veſſel then and there found, to ſee, ſearch, and ſuperviſe, and the perſons in the ſame ſtrictly to examine, touching or concerning the cuſtoms and ſubſidies due to us; and alſo in the day time, together with a conſtable, headborough, or other publick officer inhabiting near, to enter and go into any vaults, cellars, warehouſes, ſhops, or other places, to ſearch and ſee whether any goods, things, or merchandizes in the ſaid ſhips, boats, or veſſels, vaults, cellars, warehouſes, ſhops, or other places, be or ſhall be there hidden or concealed; being made or brought in or ſhipped or laden, to be tranſported from or out of the port of D. aforeſaid, or any ports or creeks adjacent to the ſaid port; and to open any trunks, cheſts, boxes, bundles, packs, &c. in which any goods, things, or merchandizes ſhall be ſuſpected to be packed or concealed; and further to do and perform all thoſe things which of right and according to the laws and ſtatutes of this kingdom on this behalf are to be done; and we firmly enjoin and command you that the ſaid T. V. and R. B. their deputies and ſervants, and every of them, in the execution of the premiſſes, from time to time, you and every of you be helping, aſſiſting, and aiding.

WRIT of ASSISTANCE as framed upon the ſtat. * 13 and 14 Geo. III. c. 8.

GEORGE the Third, by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth, to all and every our juſtices of the peace, mayors, ſheriffs, portrieves, bailiffs, ſovereigns, conſtables, headboroughs, and all our officers, miniſters, and ſubjects whatſoever, ſerving under us by commiſſion, warrant, or otherwiſe, in our kingdom of Ireland, greeting. Know ye that whereas by an act of parliament made in our parliament held in Dublin in the 13th and 14th years of our reign, intituled an act for continuing and amending ſeveral laws now in force relating to his Majeſty's revenue, and for the more effectual preventing frauds therein, reciting that the officers of our revenue in the due execution of their duty, have been frequently obſtructed and violently aſſaulted and wounded, to the hazard and ſometimes to the loſs of their lives, and that it was abſolutely neceſſary effectually to execute the powers intended to be given by the laws now in force, and to prevent the ſaid recited evils in future; it was among other things enacted for the better ſecuring and protecting the trade, and collecting the revenue of our realm of Ireland, that from and after the 24th day of June, 1774, all juſtices of the peace, mayors, ſheriffs, portrieves, bailiffs, ſovereigns, conſtables, headboroughs, and all our officers, miniſters, and ſubjects whatſoever, ſerving under us by commiſſion, warrant, or otherwiſe, ſhould be aiding and aſſiſting to all and every perſon and perſons, who are or ſhall be appointed to manage or collect our ſaid revenues, and the officers of theſe revenues reſpectively, and their reſpective deputies, in the due execution of all and every act and thing required and enjoined by the ſaid act, or any act or acts of parliament made in our ſaid kingdom of Ireland, relative to the revenues of the ſame, and that all ſuch perſons as ſhould be aiding and aſſiſting unto them in the due execution thereof, ſhould be

* By this act, the proper officers of the court of Exchequer are authorized, upon application made to them by any known ſollicitor of his Majeſty's revenues, upon his producing an order, ſigned by any three or more of the commiſſioners of the revenue, to iſſue writs of aſſiſtance under the ſeal of the court, authorizing the officers of the revenue to require and demand the aid and aſſiſtance of his Majeſty's officers, miniſters, and ſubjects, ſerving under him by commiſſion, warrant, or otherwiſe. But it is thereby provided that ſuch writs ſhall not be made uſe of by any officer, unleſs the degree of a ſurveyor, unleſs ſuch officer ſhall have a written order ſigned by ſome ſuperior officer of the revenue, of the degree at leaſt of a ſurveyor.

defended and ſaved harmleſs by virtue of the ſaid act; and the proper officers of our court of Exchequer in Ireland are thereby authorized in manner therein mentioned, to iſſue writs of aſſiſtance under the ſeal of our ſaid court, to authorize the officers of our ſaid revenues to require and demand the aid and aſſiſtance of our officers and all other perſons as aforeſaid. We therefore do ſtrictly enjoin and command you and every of you, that to all and every perſon and perſons who are or ſhall be appointed to manage or collect our revenues reſpectively, and the officers of thoſe revenues reſpectively, and their reſpective deputies, in the due execution of all and every act and thing required, and enjoined by any act or acts of parliament made in our ſaid kingdom of Ireland relative to the revenue of the ſame, you and every of you from time to time and at all times be aiding and aſſiſting; and this you or any of you, our juſtices of the peace, mayors, ſheriffs, portrieves, bailiffs, ſovereigns, conſtables, headboroughs, and all our officers, miniſters, and ſubjects whatſoever, ſerving under us by commiſſion, warrant, or otherwiſe, in no wiſe omit at your perils. And we do hereby authorize the officers of our ſaid revenue to require and demand the aid and aſſiſtance of our officers, and all other perſons as aforeſaid. Witneſs Anthony Foſter, eſq; Chief Baron of our court of Exchequer in our ſaid kingdom of Ireland, at Dublin &c.

A General Information againſt goods inwards, unladen without entry, &c.

Exciſe office, } BE IT REMEMBERED, that on the day
Dublin. } of Roger Coleman in his own proper perſon, came before the right honourable and honourable the chief commiſſioners of his Majeſty's revenue of exciſe and new impoſt, at the exciſe office in Dublin, and then and there on behalf of his Majeſty and himſelf, did give the ſaid commiſſioners to underſtand and be informed, that between the day of laſt paſt, and the day of exhibiting this information, he did ſeize to the uſe of his Majeſty and himſelf, within the diſtrict of the exciſe office aforeſaid, [here inſert the goods] for that the ſaid goods, being exciſeable goods and merchandizes, were imported into this kingdom from parts beyond the ſeas, in ſome certain ſhip or veſſel, not being in leak or wreck, and were thence taken out and unladen, without due entry or any entry firſt had or made thereof, or of the ſaid ſhip or veſſel, and without

without payment of the duty of exciſe, due and payable to his Majeſty on the importation of the ſaid goods and merchandizes; and for that the ſaid goods and merchandizes were unladen and diſcharged, without the cognizance, knowledge, privity or conſent of ſuch officer or officers, as was or were on board the ſaid ſhip or veſſel attending the unlading thereof, and without any warrant of licence from the officer of excile for the port aforeſaid firſt had and obtained, and were unſhipped, landed, and laid on ſhore, at in and upon ſome place or places, and at ſome time or times, other than the times and places allowed by law; and for that the ſaid goods were not entered nor mentioned in the invoice, but were found concealed in order to their being privately landed, without payment of the duties due and payable therein, * 24 hours after invoice, and were imported in caſks or veſſels, which did not contain fifteen gallons each at the leaſt; and for that the ſaid goods were entered under a wrong denomination, with intent to defraud his Majeſty of the duty of exciſe, due and payable thereupon; and for that the ſaid goods and merchandizes were entered inward in the name of A. B. merchant, and were not entered in the name of the true and real importer thereof; all which is contrary to the form of the ſeveral ſtatutes in thoſe caſes made and provided. Wherefore the ſaid Roger Coleman prays the judgment of the ſaid commiſſioners, that the ſaid goods may be adjudged forfeited, as the law directs.

A GENERAL INFORMATION againſt goods ſhipped outwards without entry, &c.

Exciſe office, Dublin. } BE IT REMEMBERED, that on the day of Roger Coleman, in his own proper perſon, came before the right honourable and honourable the chief commiſſioners of his Majeſty's revenue of exciſe and new impoſt, at the exciſe office aforeſaid, and then and there, on behalf of his Majeſty and himſelf, did give the ſaid commiſſioners to underſtand and be informed, that between the day of laſt paſt and the day of exhibiting this information, he did ſeize to the uſe of

* It was lately determined by the commiſſioners of exciſe, and their judgment affirmed in the caſe of Worthington *qui tam* againſt Power, that goods found concealed in a bulkhead of a ſhip after invoice in which they had been omitted, and before the 24 hours were expired were forfeited by the act of exciſe on the intention to run; and that the clauſe in the act of 33 Geo. II. as to the 24 hours, is in aid of the act of exciſe, as it makes that concluſive evidence which was before only a circumſtance to ſhew an intention to run, as appears by the recital preceding the clauſe.

his Majeſty and himſelf, within the diſtrict of the exciſe office aforeſaid, [here inſert the goods] for that the ſaid goods were ſhipped or put on board certain boats or veſſels, with intent to tranſport the ſame to parts beyond the ſeas, before due entry or any entry firſt had or made thereof, or of the ſaid ſhips or veſſels, and without the payment of the duty * due and payable to his Majeſty for the ſaid goods, and without any warrant or licence from the officer of exciſe for the port aforeſaid, firſt had and obtained; and for that the ſaid goods were ſhipped or put on board, without the cognizance, knowledge, privity, or conſent of any of his Majeſty's officers, appointed to attend the lading or ſhipping thereof, and were laden or put on board, at in or upon ſome place or places, and at ſome time or times, other than the times or places allowed by law; all which is contrary to the forms of the ſeveral ſtatutes in that caſe made and provided; and therefore the ſaid Roger Coleman prays the judgment of the ſaid commiſſioners, that the ſaid goods may be adjudged forfeited and confiſcated, as the law directs.

An INFORMATION for an intention to run †.

Exciſe office, Dublin. } BE IT REMEMBERED, that Roger Coleman, his own proper perſon, came on the day of before the right honourable and honourable the chief commiſſioners and governors of his Majeſty's revenue of exciſe and new impoſt, at the exciſe office in Dublin aforeſaid, and then and there on

* Theſe words relating to the duty, though generally inſerted, do not ſeem to be warranted by the exciſe act. And note, theſe two general informations as to goods imported and goods ſhipped outwards, where ſeveral different ſeizures have been made thereof, and which have not been claimed have been the uſual practice, as the trouble of a ſeparate information for every petty ſeizure would be endleſs. But for the directions, where there is a penalty beſides the forfeiture of the goods, ſee vol. 1. 276.

† As it was not poſſible for the legiſlature, at the time of framing the act of exciſe, to provide againſt all the arts and ſtratagems of perſons diſpoſed to defraud the King of his revenue, by the clandeſtine importation of goods, it is for that reaſon that, under that act, the intention of landing of goods, without entry firſt made, is held to be penal, in order under the extenſive conſtruction of ſuch intention, to comprehend all ſuch manner of arts and ſtratagems, againſt which no expreſs remedy was provided or could be thought of; but it is to be obſerved that the bare intention only, ſuch as the thought conceived in the mind, which may vaniſh away as ſoon as conceived, will not be ſufficient to create a forfeiture, not even if proof were to be made of an abſolute declaration thereof; the intention meant by this act, and which only can create a forfeiture, is ſuch as is made manifeſt by ſome overt act, whereby the execution of ſuch intention may in ſome meaſure appear. But for caſes of this ſort, it is not practicable to

on behalf of his Majeſty and himſelf, did give the ſaid commiſſioners to underſtand and be informed, that between the day of laſt paſt, and the day of exhibiting this information, he did ſeize to the uſe of his Majeſty and himſelf, within the diſtrict of the exciſe office aforeſaid, the ſeveral goods and commodities following, that is to ſay, [mention the goods] for that the ſaid goods and commodities, being exciſeable goods and merchandizes, were imported into this kingdom into the port and diſtrict aforeſaid, from parts beyond the ſeas, in a certain ſhip or veſſel called the Minerva, and unſhipped and landed at the cuſtom houſe quay within the diſtrict aforeſaid, without due entry or any entry firſt had or made of the ſame; and for that the ſaid goods and merchandizes were intended to be carried away, without due entry firſt had or made of the ſame, or payment of the exciſe due and payable to his Majeſty thereupon, contrary to the form of the ſtatute in that caſe made and provided, whereby the ſaid goods and commodities are become forfeited and confiſcated; and therefore the ſaid Roger Coleman prays the judgment of the ſaid commiſſioners, that the ſaid goods and commodities may be and remain forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer as the law directs.

A CLAIM of goods before the commiſſioners of exciſe.

A. B. came this day before the chief commiſſioners and governors of the revenue of exciſe and new impoſt *, by C. D. his attorney, and laid claim to the property of one caniſter, containing 29 pound of bohea tea, in the within information mentioned, as owner thereof, dated, &c. A. B.

to form any general rule of evidence, ſo that the attendant circumſtances muſt in a great meaſure govern the judgment; wherefore they who are to try theſe matters ſhould be extremely circumſpect and cautious upon theſe occaſions.

And it is worthy of obſerving, that although the act of exciſe is ſilent as to any deſcription of an intention *inwards*, or what ſhall be evidence thereof, yet it ſeems very reaſonable that the laws making an intention *outward* penal, ſhould go thus far in ſupplying and explaining what ſhall be evidence thereof, conſidering that the chance attending the event on both ſtands in no degree of equality; becauſe, as to the exportation, when the intention is thoroughly executed, there remains no poſſibility of ever making a ſeizure of the goods; which by no means is the caſe upon an intention upon importation; as there, though the intention be actually executed, there are many accidents and diſcoveries, that frequently afterwards happen, to put the goods into the hands of the ſeizing officer.

* If the real owner claims in perſon, the words "by C. D. his attorney" muſt not be in, but if by attorney, the perſon who claims for him, muſt produce a proper letter of attorney for that purpoſe, which is to be lodged with the clerk of the informations.

A NOTICE

A NOTICE of trial on the exciſe act.

Exciſe office. YOU are hereby to take notice, that on the day of at of the clock in the forenoon, A. B. &c. commiſſioners of exciſe, have appointed to hear and examine all parties, upon an information entered againſt you by and to give judgment thereupon according to law; Whereof you are hereby to take notice, and then to appear in perſon at the office aforeſaid, and not to depart without leave, otherwiſe they will proceed as if you were preſent, according as by law in that caſe is directed and appointed. Dated the day of .

A SUMMONS for a witneſs on behalf of his Majeſty.

Exciſe office. YOU are to take notice, that you are hereby ſummoned perſonally to appear, before A. B. &c. commiſſioners of exciſe, at the exciſe office in on the day of by of the clock in the forenoon, then and there to give teſtimony on the behalf of his Majeſty, upon an information exhibited the day of againſt I. S. and hereof you are not to fail upon pain of forfeiting ten pounds, or being impriſoned, as by the ſtatute in that caſe is directed and appointed. Dated this &c.

A SUMMONS for a witneſs for the claimant.

YOU are to take notice, that you are hereby ſummoned perſonally to appear, before A. B. &c. commiſſioners of exciſe, at the exciſe office in on the day of by of the clock in the forenoon, then and there to give teſtimony on the behalf of I. S, upon an information exhibited againſt him, the day of and hereof you are not to fail, upon pain of forfeiting ten pounds, or being impriſoned, as by the ſtatute in that caſe is directed and appointed. Dated this &c.

A JUDGMENT

A JUDGMENT for want of a claim.

NO perſon having laid claim to the property of the goods in the above information mentioned, within the ſpace of 21 days from the date thereof, We do therefore hereby order and adjudge the ſaid goods to be and they are hereby forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A SUBMISSION, or plea of CONFESSION, where there has not been a claim, and before the 21 days are expired.

AND the aforeſaid A. B. by C. D. his attorney, comes and ſaith, he cannot deny but that he is guilty of the ſeveral tranſgreſſions and offences in the above information mentioned, in manner and form as the ſaid Roger Colman hath above declared againſt him, and ſo forth. Dated, &c.

A JUDGMENT thereon.

UPON due conſideration of the within information, and the defendant's ſubmiſſion or plea of confeſſion thereto, We do therefore hereby order and adjudge the within-named A. B. to have forfeited the ſum of £100, being treble the value of the goods in the within information mentioned, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A SUBMISSION, or plea of CONFESSION, where there has been a claim.

AND the aforeſaid A. B. comes and ſaith, that he relinquiſheth the claim by him heretofore put in, and that he cannot deny but that he is guilty of the ſeveral tranſgreſſions and offences in the above information mentioned, in manner and form as the ſaid R. C. hath above declared againſt him, and ſo forth. Dated, &c.

A JUDGMENT

A JUDGMENT thereon.

UPON due conſideration of the within information, and the defendant's relinquiſhment of his claim, before by him put into the ſaid information, and his confeſſion or ſubmiſſion thereto, We do therefore hereby order and adjudge the within-named A. B. to have forfeited the ſum of £100, being treble the value of the goods in the within information mentioned, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A GENERAL JUDGMENT, upon an hearing, againſt run goods.

UPON hearing the foregoing information and claim, and the proofs offered on both ſides, and due conſideration had thereof, and it appearing to us that [name the goods] in the within information mentioned, had not paid his Majeſty's duties, We do therefore hereby order and adjudge the ſaid to be and remain forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A JUDGMENT as to part of the goods condemned, and a DISCHARGE as to the reſidue, on hearing.

UPON the full hearing the foregoing information and claim, and the proofs offered on both ſides, and due conſideration had thereof, and it appearing to us that one caniſter, containing fifteen pounds of bohea tea, part of the goods in the within information mentioned, had not paid his Majeſty's duties; We do therefore hereby order and adjudge the ſaid caniſter of bohea tea to be and the ſame is hereby forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. And We do hereby further order one caniſter, containing twelve pounds of green tea, being the reſidue of the goods in the ſaid information, to be and the ſame is hereby diſcharged from ſeizure. Witneſs, &c.

A JUDGMENT on an information for an intention to run.

UPON full hearing the foregoing information and claim, and the proofs offered on both ſides, and with due conſideration had thereon, and it appearing to us that the aforeſaid ſeveral goods and commodities,

dities, to wit, [here name them] in the foregoing information mentioned, were intended to be carried away without due entry firſt had and made of the ſame, or payment of the duty of exciſe due and payable to his Majeſty thereupon; We do therefore hereby order and adjudge the ſaid goods to be, and they are hereby, forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A JUDGMENT againſt a perſon for harbouring and concealing goods.

UPON full hearing the foregoing information, and the proofs offered on both ſides, and due conſideration had thereon, and it appearing to us that the aforeſaid A. B. had knowingly harboured, kept, and concealed, and had knowingly permitted to be harboured, kept, and concealed, the aforeſaid knowing the ſame to be exciſeable goods, and to be run; We do therefore hereby order and adjudge the ſaid A. B. to have forfeited the aforeſaid ſum of £ being treble the value of the ſaid goods, the ſame to be diſpoſed of as the law directs. Witneſs, &c.

A JUDGMENT againſt a boat for ſailing without a permit.

UPON full hearing the foregoing information and claim, and the proofs offered on both ſides, and due conſideration had thereof, and it appearing to us that the claimant, A. B, did ſail in the boat in the ſaid information mentioned, from Ringſend, in the port of Dublin, to the Iſle of Man, without taking out a permit for ſuch voyage, under the hand of the proper officer, or any officer of the revenue whatſoever; We do therefore hereby order and ajudge the ſaid boat to be and remain forfeited and confiſcated, as the law directs. Witneſs, &c.

A SUBMISSION by a maſter of a ſhip to an information againſt the illegal ſhipping of woollen goods.

WHEREAS the ſhip the of A. B. maſter, has been ſeized in the port of Dublin, for the illegal ſhipping of ſeveral parcels of woollen goods, as by the above information appears, NOW I the ſaid A. B. do hereby ſubmit to the above information, and do conſent that judgment of condemnation be ſigned againſt the ſaid ſhip, and all her tackle, apparel, and furniture. Witneſs, &c.

A JUDGMENT thereon.

UPON due conſideration of the within information, and the ſaid A. B's ſubmiſſion and conſent for judgment, We do therefore hereby order and adjudge the ſhip the of with all her tackle, apparel, and furniture, in the within information mentioned, to be and they are hereby forfeited and confiſcated, as the law directs. Witneſs, &c.

The like SUBMISSION for importing Eaſt-India goods.

WHEREAS the ſhip the of with all her guns, tackle, ammunition, and apparel, A. B. maſter, and the following goods, to wit, have been ſeized in the port of Dublin; for that the ſaid goods and commodities, being the growth and produce of the Eaſt-Indies, were imported in the ſaid ſhip, and were not laden and ſhipped in Great-Britain, as by the within information appears: Now I the ſaid A. B. do hereby ſubmit to the within information, and do conſent that judgment of condemnation be ſigned againſt the ſaid ſhip, with all her guns, tackle, ammunition, and apparel, together with the ſaid goods. Witneſs, &c.

The judgment thereon the ſame as on the laſt, except after condemnation of the ſhip [together with the ſaid goods] in the within information mentioned.

A JUDGMENT againſt a claimant where he does not appear on the trial.

IT appearing to us by ſufficient evidence that the claimant in the above claim was duly ſerved with a ſummons, that we would on the day in the ſaid ſummons or notice mentioned, proceed to trial on the within information and claim, and give judgment thereon, and the claimant having notwithſtanding failed to appear, We do therefore, and upon full examination of the matter of fact, and the proofs offered, hereby order and adjudge the aforeſaid 100 gallons, &c. of brandy, in the within information mentioned, to be and the ſame are hereby forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, &c.

A CERTI-

A CERTIFICATE to be at the foot of a tranſmiſs to the commiſſioners of appeal.

WE have examined the foregoing tranſmiſs, conſiſting of 100 ſheets, with the original information, proceedings, and judgment, remaining in our office in the cuſtom-houſe, and do certify them to be true copies thereof. Given under our hands, *&c.*

A JUDGMENT on a hearing, where it appeared the claimant was not the true and lawful owner, on the ſtat. 14 and 15 Car. II.

UPON full hearing the foregoing information and claim, and the proofs offered on behalf of the informer, and due conſideration had thereof, and it appearing to us that A. B. and not the claimant, was the true and lawful owner of the aforeſaid goods, and the claimant not having offered any evidence to ſhew that the goods under ſeizure were his property, We do therefore hereby order and adjudge the ſaid goods to be and remain forfeited and confiſcated, one moiety thereof to the uſe of his Majeſty, and the other to the informer, as the law directs. Witneſs, *&c.*

A CERTIFICATE from the clerk of the informations to the regiſter of the ſeizures of the condemnation of goods, on a hearing.

Roger Coleman } THE ſeveral goods in the information in this cauſe againſt A. B. } mentioned, to wit, [here mention the goods in the information] were, upon a ſolemn hearing, before the right honourable and honourable the chief commiſſioners of his Majeſty's revenue, on the day of laſt, adjudged to be forfeited. Which I certify this *&c.*

To. M. R. W. regiſter
of the ſeizures.

A Judgment of Acquittal.

UPON full hearing the foregoing information and claim, and the proofs offered on both ſides, and due conſideration had thereof, and it appearing to us that one kegg of brandy, containing ten gallons in the ſaid information and claim mentioned, had paid his Majeſty's duties, We do hereby order the ſaid brandy to be, and the ſame is hereby, diſcharged from ſeizure. Witneſs, &c.

The following Instructions are given by the chief commiſſioners of the exciſe to the ſub-commiſſioners and other officers, to be by them purſued in their proceedings upon fines, ſeizures, &c.

1. EVERY officer who ſhall make ſtay or ſeizure of any goods, ſhall as ſoon as he poſſibly can, make a return thereof in writing to the collector of that port or diſtrict in which the goods ſhall happen to be ſeized, which return ſhall ſet forth, with as much certainty as may be, the quantity and quality of the goods ſeized, the time and place of ſeizure, with ſuch other circumſtances as are fit to be known for exhibiting informations.

2. Informations to be exhibited within ſix months from the time of the offence or ſeizure, the day of exhibiting to be always ſet forth.

3. Informations againſt goods, to ſet forth the time and place of ſeizure, by whom ſeized, in whoſe houſe or cuſtody ſeized, (if concealed) how concealed, with the outward bulks, marks, quantities, and qualities contained therein.

4. Informations for fines and penalties to be exhibited ſubſequent to the ſub-commiſſioner's judgment againſt the goods, with the date of exhibiting the ſame; and no fine to be levied, or warrant of diſtreſs or attachment iſſued till a majority of the ſub-commiſſioners of the diſtrict have firſt ſigned a judgment in the information book againſt the party to be fined, diſtrained, or attached.

5. Claims not to be received after the expiration of twenty-one days, from the day of ſeizure.

6. Claims not to be received, that are not made by the true and lawful owner or proprietor, or by ſome perſon deputed under the hand of the owner or proprietor.

7. Claims

7. Claims to ſet forth the place of abode of the claimant at the foot thereof, without which no claim to be received, and the ſub-commiſſioners may proceed to judgment as in caſes of no claim.

8. Summons or notice for trial to be ſerved at the houſe ſet forth at the foot of the claim, and delivered at ſuch houſe to any perſon reſiding therein, above the age of ſixteen years.

9. The original depoſitions, and all other proceedings to be taken down, and entered in the information book at large.

10. All proceedings to be had before a majority of the ſub-commiſſioners of the diſtrict, the ſurveyor-general of the province being always conſidered one. The ſub-commiſſioners who ſit upon trials to ſign the judgment, and none other; and no perſon intereſted in the event of the cauſe to ſit in judgment.

11. Goods ſeized to be valued or appraized by two experienced perſons, the ſurveyor to be one. When the quantities are great, to be divided into lots, and diſtinguiſhed by the ſeveral degrees of fine or coarſe, and apprized accordingly.

12. Spirits, and all other liquors ſeized, to be gauged immediately upon being put into the ſtores, and re-gauged upon the day of ſale; both which gauges to be annexed to the information-book, certified by the perſon who gauged. If any decay, leakage, or waſte, ſhall happen, the ſurveyor or other perſon having care of the ſtores, jointly with the collector to aſſign the reaſon by certificate in the information book. Caſks of liquor to be filled up before ſale, and the number of ullage caſks to be certified by the ſurveyor.

13. All bills of expences to ſet forth each particular article of expence. Articles of charge for carriage to ſhew the number of miles the goods have been conveyed. At the foot of each bill an affidavit to be by the perſon who laid out the money, made before the collector; which ſhall ſet forth, "that every article contained in the "bill is true, and that neither the deponent, or any perſon for him, "already hath or is to have any benefit or advantage from the ſame, "except what appears in the bill." And bills of expences which ſhall in the whole exceed the ſum of five pounds ſterling, ſhall before the Crown's proportion of the ſeizure is brought to charge, be returned to the examiner of the information books, to be by him examined, and laid before the board for approbation and warrant for allowance.

14. The Crown's moiety of each fine and ſeizure to be brought forward to the cloſe of each quarter in the information book, where one general ſum is to be made of the quarter's produce. Particulars of fines and ſeizures to be tranſcribed from the information book into the collector's quarterly account of charge.

15. Receipts

15. Receipts for the moieties or rewards of informers or ſeizing officers to be ſigned by themſelves only. When two or more are ſeizing officers, each perſon to ſign a receipt for his reſpective proportion of the ſeizure, fine, or reward; and all ſuch receipts to appear in the information book.

16. The board's orders relative to fines and ſeizures to be annexed to the information book; and the general order of the 23d February, 1759, as to the diſtribution of ſhares of ſeizures made by cruiſing barges, to be ſtrictly obſerved.

Writ of Appraisement.

GEORGE the Second, by the grace of God of Great-Britain, France, and Ireland King, defender of the faith, and ſo forth; to R. A. and J. K. merchants, C. M. eſq; and M. G. merchant, greeting. WE command you, that immediately after ſight or receipt of this our writ, you or any three or two of you, according to the oaths of good and lawful men of the city and county of Londonderry, do value, meaſure, and appraiſe the ſhip or veſſel called the Swift Schooner, with all her guns, tackle, furniture, ammunition, and apparel, ſeized and arreſted by T. F. at the port, harbour, and bay of Ship-haven, in the county of Londonderry, for the uſe of us and the ſaid T. F, as being forfeited; and that you have an indenture between you and the appraiſers aforeſaid, containing the valuation of the aforeſaid ſhip, with all her guns, furniture, tackle, ammunition, apparel, aforeſaid, duly executed, ſo that any three or two of you may have ready to be delivered before the Barons of our court of Exchequer, at the King's courts in Dublin, on the morrow of All Souls next coming, the other part of the ſaid indenture, together with this our writ. Witneſs Anthony Foſter, eſq; Chief Baron of our ſaid Exchequer, at the King's courts aforeſaid, the day of June, in the year of our reign *.

Anthony Foſter. Clanbraſſill.

* This writ iſſues on the conſent of the ſolicitor for the revenue, on which a rule is entered of courſe by one of the ſecondaries in the chief remembrancer's office in the department called the office of pleas. And note, the form of this writ and the after proceedings are the ſame on the 1ſt Geo. III. c. 7. ſee vol. 1. 182, 183.

FORM of the precept from the commiſſioners of appraiſement to the ſheriff to ſummon a jury to appraiſe a veſſel.

T. F. who as well and againſt the ſloop or veſſel called the Swift Schooner claimed by H. C. } WHEREAS there iſſued forth of his Majeſty's court of Exchequer, and under the ſeal thereof, his Majeſty's writ of appraiſement, bearing date the day of 1775, directed to R. A. and I. K. of &c. and C. M. and M. G. of &c. requiring them to appraiſe a certain ſloop, cutter, or veſſel, called the Swift Schooner, with all her guns, tackle, furniture, ammunition, apparel, and ſo forth. And whereas the ſaid commiſſioners have in purſuance of the ſaid writ, appointed the day of next, between the hours of and of the clock in the noon of the ſaid day, for appraiſing the ſaid veſſel and ſo forth, at the collectors office in the cuſtom-houſe of Theſe therefore are to authorize and impower you, to ſummon or cauſe to be ſummoned a good and impartial jury of lawful men of your bailiwick, to appear before us at the time and place aforeſaid, to appraiſe the ſaid veſſel and ſo forth. Given under our hands this day of 1775.

R. A. } commiſſioners for
I. K. } the claimant.

To the ſheriff of

NOTICE of ſpeeding a writ of appraiſement from the claimant's commiſſioners to the informant's commiſſioners.

T. F. who as well and againſt the ſloop or veſſel called the Swift Schooner claimed by H. C. } WHEREAS we have received a writ of appraiſement, iſſued forth of the revenue ſide of his Majeſty's court of Exchequer in Ireland, to us and C. M. and M. G. gent. directed for the appraiſing of the ſaid ſloop or veſſel in this cauſe. Theſe are therefore to give you notice, that in purſuance of the ſaid writ, we will proceed to appraiſe the ſaid veſſel at the collectors office of the cuſtom-houſe of between the hours of and of the clock, in the noon of the ſaid day, at which time and place you may be preſent if you think proper. Given under our hands this day of 1775.

R. A. } commiſſioners for
I. K. } the claimant.

To C. M. and M. G. gent. commiſſioners for his Majeſty and the informer, and to Gorges Edmond Howard, eſq; ſolicitor for the revenue.

The

The INQUISITION on the aforeſaid writ of appraiſement.

AN inquiſition indented, taken at the city of Londonderry, in the city and county of Londonderry, the day of July, in the year of our Lord before us R. A. and T. K. merchants, C. M. eſq; and M. G. merchant, by virtue of his Majeſty's writ or commiſſion, to us or any three or two of us directed, and to this inquiſition annexed, by the oaths of I. S, &c. good and lawful men of the city and county of Londonderry aforeſaid, who being ſworn upon the holy Evangeliſts, and charged upon their oaths, ſay, that they find, value, and appraiſe the ſhip or veſſel called the Swift Schooner, in the ſaid writ or commiſſion mentioned, with all her tackle, furniture, and apparel, now lying in the port of Londonderry, to the ſum of £200 ſterling, and no more; and alſo find that the ſaid ſhip or veſſel is of the burthen of tuns and no more; and the jurors aforeſaid upon their oaths aforeſaid further ſay, that there was not, nor were not any gun or guns or ammunition on board of, or belonging to the ſaid ſhip or veſſel called the Swift Schooner, which they could value or appraiſe, as by the annexed writ or commiſſion is directed: In teſtimony whereof, as well we the ſaid R. A, J. K, C. M, and M. G, commiſſioners appointed as aforeſaid, as the ſaid jurors, have to this inquiſition interchangeably ſet our hands and ſeals, the day, year, and place aforeſaid.

The FORM of the RECOGNIZANCE to be entered into on the return of the writ of appraiſement.

BE IT REMEMBERED, that on the day of P. M. owner, or proprietor of, or who claims (as the caſe is) the ſhip or veſſel called the Swift Schooner, together with A. B. of &c. and C. D. of &c. came before the right honourable the lord Chief Baron of his Majeſty's court of Exchequer, and acknowleged themſelves to be jointly and ſeverally indebted to our ſovereign lord the King in the ſum of four hundred pounds ſterling, to be levied of their goods and chattels. } £400.

T. F.

T. F. as well and ſo forth, againſt the ſhip or veſſel called the Swift Schooner claimed by P. M.

WHEREAS by an order of his Majeſty's court of Exchequer in Ireland, bearing date the day of 1775 (reciting as therein is recited) it was ordered, upon the ſaid P. M. giving ſecurity by recognizance before the lord Chief Baron in the penalty of £400 ſterling, conditioned for the payment of £200 ſterling, in caſe judgment ſhall be given for the plaintiff, on any information already brought or to be brought for or againſt the ſaid ſhip or veſſel, that thereupon a writ of delivery do iſſue for delivering the ſaid ſhip or veſſel unto the ſaid P. M. as by the ſaid order may appear.

Now, the condition of the above recognizance is ſuch, that in caſe judgment ſhall be given for the plaintiff, upon any information brought, or to be brought for or againſt the ſaid ſhip or veſſel called the Swift Schooner, that the ſaid P. M. ſhall well and truly abide by, perform, and fulfil the judgment of this court, or any other court, on any ſuch information, according to the true intent and meaning of the ſaid order, that then the above recognizance to be void, otherwiſe remain in full force and virtue in law.

P. M.

Taken before me, A. B.
A. Foſter. C. D.

N. B. If the recognizance be taken by conſent of the ſolicitor for the revenue, it muſt be ſo mentioned at the foot thereof; And if the ſeizure be of goods or merchandizes, the writ of appraiſement, recognizance, and writ of delivery, are to be ordered accordingly. But in this caſe, ſhould not the recognizance and ſecurity extend to the payment of the duties, to which ſuch goods and merchandizes are liable, in caſe the ſame on the trial of the information againſt them ſhall be acquitted, as they are to be delivered over to the claimant on the writ of delivery, and the writ to be ordered accordingly?

Writ of Delivery.

GEORGE the Second, &c. to T. F. or L. H, gent. ſurveyors of Shiphaven in the county of Londonderry, greeting. Becauſe P. M. claims a property to the ſhip or veſſel called the Swift Schooner, with all her guns, furniture, tackle, ammunition, and apparel, ſeized and arreſted by you T. F. aforeſaid for certain cauſe, and the aforeſaid P. M. having found ſufficient ſecurity before the Barons of our court of Exchequer to ſatisfy us and you the aforeſaid T. F. for the price

or value of the aforeſaid ſhip, in caſe the aforeſaid ſhip ſhould for any cauſe, upon any information of the aforeſaid T. F. already exhibited before the ſame Barons before mentioned, or before any other perſons lawfully authorized on this behalf, or upon any information hereafter to be exhibited, happen to be adjudged to be forfeited, (as by the records of our aforeſaid Exchequer more fully appears;) therefore we command you and each of you, that immediately after ſight or receipt of this our writ, you deliver or cauſe to be delivered the aforeſaid ſhip, furniture, tackle, and apparel, to the aforeſaid P. M. or to his aſſigns on this behalf; and by the tenor of theſe preſents, we will that you be exonerated with reſpect to us, on account of the ſecurity aforeſaid. Witneſs Anthony Foſter, eſq; Chief Baron, *&c.*

The PROCEEDINGS in the Exchequer in order to obtain a NEW ENTRY OF GOODS, DUTY FREE, at the cuſtom-houſe, purſuant to the ſtatute 14 and 15 Car. 2.

The form of the examination to be ſworn before the Chief Baron.

The examination of I. M. of, *&c.* taken and ſworn before the Rt. hon. J. B. eſq; Chief Baron of his Majeſty's court of Exchequer in Ireland.

WHO being duly ſworn and examined before me, ſaith, that on or about the 27th day of March, 1747, there was entered in the cuſtom-houſe of the city of Dublin, by this examinant, 120 barrels of beef, *&c.* for which this examinant paid his Majeſty's duty, amounting to 10*l.* 1*s.* 11*d.* as appears by the annexed certificate, ſigned by Frederick Norman, deputy collector, and William Sheppey, deputy cuſtom collector, of the port of Dublin aforeſaid; and this examinant ſaith, that in ſome ſhort time after the ſaid goods were ſhipped on board the ſhip or veſſel called the Greyhound, Bartholomew Broader, then maſter, for Antigua in the Weſt-Indies; that on or about the 15th day of April laſt paſt, the ſaid ſhip ſailed from the port of Dublin aforeſaid, and proceeding on her intended voyage for Antigua aforeſaid, the ſaid ſhip or veſſel, called the Greyhound, with her cargo then on board, was on or about the 25 or 26th days of June laſt paſt, attacked and taken near Antigua aforeſaid, by a French privateer ſloop, called the Great Reeby, captain Oyſlier commander, of 14 carriage guns, and about 150 men, belonging to Martinico, a French iſland in the Weſt-Indies; and that ſaid ſhip called the Greyhound, the crew and cargo then on board, were on or about the

29th

29th day of ſaid month of June brought into Guadaloupe, a French iſland in the Weſt-Indies, where ſaid ſhip and cargo were condemned and made a lawful prize, as this examinant was informed and verily believes, and as appears by an affidavit made by the ſaid Batholomew Broader the then maſter of the ſaid ſhip or veſſel, now in this examinant's poſſeſſion, of the capture and condemnation of ſaid ſhip and cargo as a lawful prize as aforeſaid, which this examinant believes in his conſcience to be true; and this examinant ſaith, he verily believes ſaid ſhip and cargo were not taken with the privity or conſent of any of the ſhip's crew or of this examinant; and ſaith that this examinant is a merchant and a free denizen of this kingdom, and that he, or any one in truſt for him, or for his uſe, to his knowledge or belief, hath not received the ſaid goods ſo put on board ſaid ſhip, or any part thereof, or any ſatisfaction for them, or any of them, nor doth he this examinant expect to receive the ſame, or any ſatisfaction whatſoever for them, or any part thereof, except the benefit of inſurance and a new entry, as in ſuch caſes is uſual.

Sworn before me this day of 177

I. M. John Bowes.

Further PROOF of the loſs of the ſhip.

County of the city of Dublin, to wit, } B. B. late commander of the ſhip or veſſel called the Greyhound of Dublin, burthen 60 tuns or thereabouts, came this day before me and made oath, that he this deponent, on the 15th of April laſt paſt, ſet ſail from the port of Dublin with the ſaid ſhip and cargo, conſiſting of beef, &c. and was bound for Antigua in the Weſt-Indies, and that this deponent proceeding on the ſaid intended voyage on the 25th and 26th day of June laſt paſt, near Antigua aforeſaid, was attacked and taken by a privateer ſloop called the Great Reeby, captain Oyſlier commander, of 14 carriage guns, and about 150 men, belonging to Martinico, a French iſland in the Weſt-Indies, and that ſaid ſhip or veſſel called the Greyhound and this deponent and cargo and crew then on board, were on the 29th day of June aforeſaid brought into Guadaloupe, a French iſland in the Weſt-Indies aforeſaid, where ſaid ſhip and cargo were condemned and made a lawful prize.

Sworn before me this day of

B. B. Hen. Burrowes.

The CERTIFICATE of the deputy cuſtomer and collector, and the deputy comptroller of the port of Dublin.

Outwards. 27th of March, 1747.
Greyhound of Dublin, Barth. Broaders, maſter, for Antigua.

	T. M.
120 barrels of beef - -	£120
Sundries amounting to - -	61 18
No. 4. (a true copy)	
William Sheppey, dep. comp. and col.	181 18

Port of Dublin,

Theſe are to certify all whom it may concern that the above is a true copy of an entry made in this cuſtom-houſe here the above date, by the above-named I. M. the cuſtom of which amounts to £ ſterling, which was accordingly paid here. Witneſs our hands and ſeals of office this day of

William Sheppey, dep. comp. and col.
Fred. Norman, dep. col.

ORDER of the Exchequer thereon.

Port of Dublin, T. M. merchr. for a new } The 29th Feb. 1747.
Upon motion of Matthias Lyſter eſq; of counſel with the ſaid merchant, it is ordered by the court, that the ſaid merchant ſhall have a new entry of goods, duty free, to the value of the duty of the goods in the annexed examination and certificate mentioned, unleſs good cauſe ſhall be ſhewn to the contrary by his Majeſty's commiſſioners of the revenue in four days after ſervice of this order. Palmerſtown.

When the order is obtained, it is brought to the commiſſioners of the revenue, who refer the ſame, together with the examinant's affidavit and certificate to their ſolicitor, who is to report thereon; and if he is of opinion, that the ſaid ſtatute is fully complied with, the commiſſioners will write at the foot of the order that they have no objections againſt a new entry being granted; and the attorney for the merchant may thereon move the court of Exchequer to have the laſt order made an abſolute order for a new entry; and this laſt order is to be brought to the commiſſioners, who will thereupon make an order to the collector of the port to pay due obedience to the order of the Exchequer.

ADDENDA,

ADDENDA, containing ſome rules and other matters omitted in their proper places.

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Page 19. The two following rules relating to the purſuivant ſhould be here inſerted.

Ordered, that all attachments which ſhall hereafter iſſue to the purſuivant of this court, be made returnable the firſt of the term following. Rule, 28 Mar. 1684.

Ordered, that whenſoever there is an attachment iſſued by order of court directed to the purſuivant, and afterwards the court ſhall think fit to ſuperſede the ſame, that the ſecond remembrancer take care that it be inſerted in the ſaid order, "the attachment to be ſuperſeded, paying the purſuivant his fees". Rule, 17 Dec. 1684.

Page 50, line 19. The following rule ſhould be inſerted as a note to the word *order*, viz.

Ordered, that his Majeſty's Auditor general do take ſpecial care that no rents be diſcharged, or any charge altered in his office, without ſpecial order from the court. Rule, 27 Jan. 1684.

Ibid. line 20. The following rule ſhould be inſerted, as a note to the word *notice*, viz.

Ordered by the court, that upon all references to the Auditor general concerning the King's rents, notice in writing be given to the ſolicitor for the ſame, of the attendance on the Auditor general. Rule, 9 July 1760.

Page 53. At the bottom, add,

And by the 11 and 12 Geo. III. c. 19, this act is revived and continued for 10 years, and from thence to the end of the then next ſeſſion.

Page 106. At the bottom inſert this rule, viz.

G. E Howard, eſq; ſolicitor for the caſual revenue, this day informed the court, that on the appoſal of T. Blakeney eſq; late ſheriff of the county of Galway, for the year 1774, there appeared a conditional fine impoſed on him in the plea ſide of the court, for not returning a writ, which had been eſtreated, although the writ had been returned, before the time given him for returning the ſame had been Rule, 24 Feb. 1775.

been expired, and that only abſolute fines ſhould be eſtreated, as it is ſwelling the green wax unneceſſarily, putting the Crown and ſubject to unneceſſary expence, and ſubjecting the latter to the execution of the proceſs; whereupon, it is this day ordered by the court, that the ſaid conditional fine be ſtruck out of the proceſs, and that for the future, no conditional fine be eſtreated by the clerk of the pleas; whereof all officers and perſons concerned are to take notice.

Page 126. Before the rule of 28 Nov. 1752, inſert the following, viz.

Rule, 22 June 1702. Upon complaint made to the court, that thoſe concerned, being fined for not returning proceſs, writs, for not paying rent or money, come to have their fines taken off without a certificate, the court have ordered, that they bring a certificate from the comptroller, and pay the ſecond remembrancer for taking the fine, or the fine to ſtand, and the officer to renew the proceſs *gratis*.

Ibid. After the rule of 24 July 1772, inſert,

And by a rule of the ſame date, they are in like manner to be filed in the chief remembrancers office of the court, and by a rule of the 12th of February 1773 in the pleas ſide of the court.

Page 106. Between the 2d and 3d paragraph inſert the following rule, viz.

Rule, 10 June 1761. It appearing upon the appoſal of ſeveral ſheriffs, that proceſs had iſſued againſt ſeveral married women who had entered into recognizances before juſtices of the peace, and the court being of opinion that ſuch recognizances are illegal and ought not to be iſſued in proceſs; it is therefore ordered, that the ſeveral officers of the court do not for the future iſſue any proceſs againſt married women upon ſuch recognizances.

Page 181. After rule 19 Nov. 1667, inſert the two following.

Rule, 21 Nov. 1770. Ordered upon motion of Mr. Howard ſolicitor for the caſual revenue, that the clerk of the pipe do on the firſt of every Hillary term, return to the court the names of the ſeveral ſheriffs of the ſeveral counties, counties of cities, and counties of towns of the kingdom, who ſhall then be in default in paſſing their accounts, paying their tots, and performing their accounts according to law, and the uſual courſe of the court, and the reſpective times they have been ſo in default.

Rule, 23 Jan. 1771. Mr. Howard was ordered to lay the liſts made in conſequence of the order before the court, and to poſt them in the halls of the courts.

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The following Extracts, relative to actions brought by or againſt revenue officers deſerve a place here.

In ſuits brought againſt officers or their aſſiſtants for revenue matters, the defendants may plead the general iſſue and give the ſpecial matter in evidence.

By ſtat. 33 Geo. II. c. 10. where any ſuit ſhall be brought or commenced againſt any officer of his Majeſty's revenue in this kingdom, or any other perſon that ſhall aid and aſſiſt ſuch officer, for or concerning any matter or thing by him or them done, by virtue of and in execution of their office, ſuch officer, his aiders and aſſiſtants may plead the general iſſue, *not guilty*, and give the *ſpecial matter* in evidence to the jury who ſhall try the ſame.

14 days notice before trial to be given of any records that are to be produced in evidence.

And it is provided, that ſuch officer or his attorney, ſhall, at leaſt 14 days before ſuch trial, (in caſe ſuch officer ſhall on ſuch trial give any record or records in evidence,) give notice in writing to the plaintiff, or his attorney, what record or records he intends to give in evidence on ſuch trial.

Officers commiſſions how to be proved, in all ſuits, actions, indictments, or informations, brought by or againſt them.

And to prevent the great expence and trouble which the officers of his Majeſty's Revenue may be at, in proving the commiſſions under which they act, it is further enacted, that in all ſuits, actions, indictments, or informations, brought againſt any officer of his Majeſty's Revenue, and in all ſuits, actions, indictments, or informations, brought by any officer of his Majeſty's revenue in his own name, or in his Majeſty's name, or in the name of any informer, where it may be neceſſary to prove the commiſſion or commiſſions of ſuch officer, an atteſted copy of the entry in any of the books of or belonging to the Commiſſioners of his Majeſty's Cuſtoms or Exciſe in Dublin, or of the entry in the Collectors books of that diſtrict, where he acted as an officer, ſhall be admitted and allowed as evidence in all Courts of record in this kingdom, of his being a legal officer, or of his having authority to act as an officer of his Majeſty's revenue, without producing the commiſſion by which he was appointed and conſtituted.

21 days notice of trial to be given in all actions againſt officers.

If trial is brought on by proviſo, like notice to be given.

And in all actions to be brought againſt any officer of his Majeſty's revenue, or his or their aſſiſtants, for any thing done by him or them in the execution of his office, the plaintiff in every ſuch action ſhall give notice of trial, at leaſt 21 days before the trial of any ſuch action to the defendant, or his attorney; and in like manner, if the trial of ſuch action ſhall be brought on by *proviſo*, the like notice ſhall be given by ſuch defendant to the plaintiff or his attorney.

Note, this act was but for two years, but has been continued every ſeſſion ſince.

N. B. Since the aforeſaid work was printed off, the following clauſe in the ſtat. 15 and 16 Geo. III. c. 15. in relation to writs of *Appraiſement* hath been publiſhed, whereby (after reciting the clauſe in the ſtatute in the 1ſt and 2d year of his preſent Majeſty's reign, (ſee before page 334) by which it ſhall and may be lawful to and for the owner or owners of any goods and merchandizes ſeized for being run, and to and for the maſter and commander of any ſhip or veſſel ſeized for the breach of any of the laws of Exciſe, to apply, as might by law now be done in caſes to be heard and determined in the court of Exchequer for writs of *Appraiſement* and *Delivery*; and that the benefit intended by the ſaid laſt recited Act, for fair traders only, had been in many inſtances obtained by *ſmugglers* applying for and obtaining writs of *Appraiſement* and *Delivery*, for ſhips and other veſſels actually employed in illicit and contraband trade, to the great detriment of his Majeſty's revenue, and to the prejudice of the fair trader) It is enacted, that from and after the 24th day of June 1776, no writ of *Appraiſement* or *Delivery* ſhall iſſue for any ſhip or other veſſel whatſoever, unleſs the perſon ſo applying for ſuch writ of *Appraiſement* or *Delivery*, ſhall produce a conſent in writing, under the hands of three or more of the chief Commiſſioners of his Majeſty's Revenue of Exciſe, for the granting of ſuch writ of *Appraiſement* or *Delivery* *.

* Suppoſe it had been added; *Unleſs it ſhall appear to the Court upon ſatisfactory Affidavit, that the veſſel under ſeizure had not been employed in ſmuggling*; and that the conſent of two Commiſſioners, or even one, had been ſufficient? For inconveniencies may attend this act, as it is now; eſpecially ſhould the charge be groundleſs and the veſſel in a diſtant harbour.

Some

Some POINTS determined in Lord Chief Baron Parker's reports lately publiſhed, with reference to the pages of the volumes to which they relate.

Vol. I. page 106, line 3.

If a *Recognizance* of the good behaviour be taken at the *Aſſizes* or *Seſſions* and the *Condition* be broken, the Court below cannot eſtreat it, upon proof made of the breach by witneſſes; the regular courſe is, to remove the *Recognizance* into the *Exchequer*, whence a *Scire facias* ſhould iſſue aſſigning a breach, which the defendant and his pledges may controvert, by pleading to the *Scire facias*. But if a *Recognizance* be given for appearance at the *Aſſizes or Seſſions*, and the party, upon being called, does not appear, the *Recognizance* ought to be eſtreated, becauſe it appears by the acts of the Court that the condition is broken. Parker's Rep. 54.

An inferior Court cannot eſtreat a *Recognizance* upon proof of the breach by witneſſes, it is to be removed into the Exchequer.

Vol I. p. 261. l. 20. note to the end of the paragraph.

For the uſage and practice in the Exchequer in England as to *Writs of Appraiſement* and *Proclamations* in Court. See Parker's Rep. 61, *&c.*

The uſage and practice in the Exchequer in England on writs of *Appraiſement* and *Proclamations* thereon.

Vol. I. p. 263. l. 14.

Upon ſeizure of *periſhable goods*, the Court of Exchequer has a diſcretionary power to order a ſale without the conſent of the *Claimer*, but not after judgment, pending a *Writ of Error*. Parker's Rep. 70.

The power of the Court in ſelling ſeized goods that are periſhable.

Vol. II. p. 35. l. 24. note to the end of the paragraph.

The rules ſettled when *Outlawries* or *Inquiſitions* are at different times, or otherwiſe, are theſe, viz. 1. Where there are two *Outlawries* on the ſame or different days, the firſt *Inquiſition* ſhall prevail. 2. Where there are two *Inquiſitions* on one day, the firſt *Outlawry* ſhall be preferred. 3. Where there are two *Outlawries* on one day and both *Inquiſitions* on one day, there, the firſt *Leaſe* ſhall be preferred. Parker's Rep. 90. But note, no rule is laid down, what ſhall intitle the party to the firſt *Leaſe*.

How *Outlawries* ſhall be preferred where they and *Inquiſitions* are upon the ſame or different days.

Vol. I. p. 298. l. 8. note to the end of the paragraph.

The practice of the Court of Exchequer in England, in proceedings upon writs of *Scire facias*, whereon returns of *Scire feci* have been made, is as follows, viz. on a *Scire feci* returned a rule is given, on the writ, of four days at leaſt for the defendant to appear and plead thereto,

The practice of the Exchequer in England on writs of *Scire facias* where *Scire feci* has been returned.

thereto, or an extent to iſſue; and in caſe the defendant appears, then another rule is given on the writ of four days at leaſt for the defendant to plead or an extent to iſſue; and in caſe the defendant doth not appear on the firſt rule, or appearing doth not plead on the ſecond rule, proceſs of extent ſometimes iſſues without any judgment previous thereto; but ſometimes judgment is entered up for the King on the defendant's default in not appearing, or in not pleading after appearance, on rules given on ſuch writs for entering judgment. Parker's Rep. 94.

Vol. I. p. 308. l. 8.

A debt by ſimple contract ſeized into the King's hands to be preferred to bonds not paid before ſeizure; but payment of bonds by an adminiſtrator before ſeizure or notice of the King's debt may be well pleaded againſt the King.

A debt by ſimple contract ſeized by an *Inquiſition* into the King's hands, ſhall be paid by the executor of the debtor, in preference to bonds due from the debtor, not paid before ſeizure; for by the ſeizure it became a debt due to the King by record, and the ſeizure implies notice; but if the bonds had been paid before the *Inquiſition*, or before the executor had actual notice of the debt to the King, ſuch payment would have been good againſt the King, becauſe there was no debt on record, and the executor had no means of diſcovering whether there were any or what debts to the King. Parker's Rep. 260.

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* This Rule, it is conceived, relates only to the King's rents.

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P.

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PURSUI-

PURSUIVANT.

For the ſeveral rules relating to him as to Attachments directed to him; his duty thereon, and on receiving the Green-wax Proceſs; as alſo in relation to his fees, and the puniſhment for his neglects.
See before titles *Attachment*, *Fines*, and *Green-wax Proceſs*.

As the three following RULES *relating to this* Officer *do not immediately belong to any particular Chapter in the foregoing work, they are inſerted here.*

Ordered by the Court, where Attachments have iſſued, directed to the *Purſuivant* of this Court, againſt *Sheriffs*, and the *Purſuivant* has returned that they cannot be found, that Attachments may be renewed of courſe againſt ſuch *Sheriffs*, directed to the *Serjeant at Arms* of this Court. Rule 17th July, 1756. Attachments to the *Purſuivant* againſt *Sheriffs*, and returned not to be found, renewed to the *Serjeant at Arms*.

Ordered by the Court, that whenever any writ of Attachment ſhall iſſue reſpectively, either to the *Serjeant at Arms* or *Purſuivant* of this Court, and that in obedience thereto they reſpectively ſend down their meſſengers to execute the ſame, that no *diſcharge* or *conſent* from any Attorney of this Court or his client only ſhall be of any avail or hinder the execution of the ſaid Attachment, unleſs their reſpective fees be firſt paid. And that no perſon or perſons to be taken on any Attachment ſhall be diſcharged by the *Serjeant at Arms*, or *Purſuivant*, until the ſaid perſon or perſons do firſt produce to them a *ſuperſedeas*, under the ſeal of this Court; and that the reſpective officers do iſſue no *ſuperſedeas* to ſuch Attachment, without the perſon ſo ſuing for the ſame do firſt pay the ſaid *Serjeant at Arms* and *Purſuivant* reſpectively, their reſpective uſual and due fees; and that until they are paid their ſaid reſpective fees, the ſaid *Serjeant at Arms* and *Purſuivant* ſhall be at liberty to renew the ſaid Attachment, notwithſtanding the Attornies to ſuch contempts ſhall not renew or conſent to the renewing the ſame. Rule 22d May, 1713. *Serjeant at Arms* and *Purſuivant* of this Court to be paid their due fees before *ſuperſedeas* or diſcharge.

It is ordered by the Court, for the future, that in all caſes where fines are run out againſt the *Serjeant at Arms* or the *Purſuivant* attending this honourable Court, and the party applies for an order that the *Serjeant at Arms* or the *Purſuivant* ſhould ſtand committed to the cuſtody of the *Uſher* and *Marſhal* of this Court, ſuch order ſhall be that the *Serjeant at Arms* or the *Purſuivant* do ſhew cauſe in four days after ſervice of ſuch rule or order, wherefore they ſhould not ſtand Rule 11 Feb. 1773. *Serjeant at Arms* and *Purſuivant* to whom to be committed for neglect, &c.

ſo

ſo committed: and if the *Serjeant at Arms* or *Purſuivant* do not ſhew cauſe in four days after ſervice of ſuch rule or order, the ſame to be made abſolute on an Affidavit of the ſervice thereof, and the *Serjeant at Arms* or *Purſuivant* to ſtand committed to the cuſtody of the *Uſher* and *Marſhal* of this Court without further motion.

Q.

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R.

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The

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S.

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SOLICITOR for the KING's RENTS.

See titles *Auditor General* and *Rents of the King.*

W.

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OUTLAWRIES.

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RENTS of the KING.

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The practice of the Exchequer in England on writs of *Scire facias* where *Scire feci* has been returned. II. * 345.

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ERRATA.

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PAGE 13. l. 23. insert *the* between the words *executing* and *said*.—do. p. l. 24. before *Levari facias* insert *writs of*. —do. p. last line, dele *and excise*. — p 14. l. 25. for *fiers* read *Levari*.—p. 30. l. 15. after *Navigation* insert *Dublin Society for the Northwest fishery*.—p. 32. in the margin, for *in pursuance of the Commissions of Grace* insert *on Grants of the Escheated Counties*.—p. 37. in the margin, before the word *now* insert *part*.—p. 44. l. 1. after the word *to use* insert *several*.—p. 51. l. 22. dele *Scire facias*.—p. 63. in the margin, for *to whom* read *by whom*.—p. 68. l. 3. dele *did*.—p. 70. l. 1. in the notes, between *the* and *Collectors* dele *said*.—p. 75. l. 19. dele *but this does not extend to this kingdom* —ib. l. 21 and 28. for *this duty was* read *these duties were*.—p. 104. l. 2. the parenthesis should close after *fine*.—p. 111. in the margin, for 2 read 24.—p. 120. l. 13. insert *the* between *of* and *bail*; and in l. 14 between *if* and *bail* —p 121. l. 19. dele *to*.—p 123. l. 18. for *they* read *the*, and for *the* read *they*.---do. p. l 1. for *Council* read *Counsel*.—p. 126 l. 22 instead of *of this branch of the Casual revenue* insert *thereof*.—p. 134. l. 4. in the notes, for *tuo* read *sui*.—p. 135. l. 18, 19. *Profits upon Faculties* should precede *First fruits*.—p. 138, 139. the paragraph *Profits upon Faculties* should precede that of *First fruits*.—p. 144. l. 12. between *to* and *holy* insert *the*.—p. 147. for *Ligan* read *Lagan* all through.—p. 165, to the first note, add, *See Hales Sher. Acc.* 52. 179. —p. 173. l. 1. in the margin, instead of *Ibidem* insert *Rule*.—p 177. last line but one, in the notes, between *well* and *sub-sheriff* insert *as*. — p. 181. in the margin, for 1767 read 1667.—p. 184. l. 9. for *of* which, read *for* which; l. 22. dele *that*.—p. 185. the note which is in the third should be in the first person —p. 240. in the notes, for *Commissioners* read *Commissions*.—p. 256. for *all*, the catch word to the next page, read *on*.—p. 258. l 19. between *the* and *custom* read *Act of*.—p. 304. l. 18. dele the semicolon after person.—p. vii. l. 15, in the Preface, dele *at this day*.

VOL. II.

PAGE 1. for Chap. XXIX read XXVIII.—p. 39. line 22. for *trust* read *thrust*.—p. 56. l. 23. for *terms* read *termini*.—p. 67. l. 25. after *every* insert *of*.—p. 77. l. 19. insert *and* after *brother*.—p. 97. l. 16. for *of* before *Sub-commissioners* read *or*.—do. p. l. 26. for *Clerks* read *Crecks*.—p. 99. l. 17. dele *for raising*, and insert *of*.—p. 117. in the notes, insert *r* before *a* in *Stafford*.—p. 124. in the notes, for 1649 read 1641.—p. 139. l. 27. after *out* insert *and*.—p. 140. l 5. for *seal* read *seals*.—p. 143 l. 18. for *set* read *sets*.—p. 162 l. 16. dele *s* in *patents*.—p. 200. l. 1. for 15,000 read 150,000. —p. 217. l. 9. after *thereof* insert *from*.—p. 225. l. 8. for 1773 read 1733.—p. 226. l. 7. dele the comma after *tillage* —p. 284. l. 4. dele *s* in *arrears*.—do. p. l. 30 for *commanded* read *committed*.—p. 286. l. 13. for the first *T* read *S*.—do p. l. 30. for *was* before granted read *were*.—p. 291. l. 10. dele *if*.—p. 292. last line, for *Meath* read *Cavan* —p. 321. l. 7. in the notes, for *unless* read *under*. —p. 334. last line, insert *as* after *fame*, and for 182, 183, read 282, 283.

Note, the *Commissioners*, for different purposes, are not alphabetically placed in the Index, which should have been so.

*** It is requested, that upon receipt of the two volumes the above Errata may be corrected, as some of them are material.